

**APPENDIX A
SPECIAL PROVISIONS**

HONOLULU RAIL TRANSIT PROJECT

**WEST SECTION
CONSTRUCTION ENGINEERING & INSPECTION CONSULTANT
PROFESSIONAL SERVICES CONTRACT**

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These Special Provisions and the General Terms and Conditions for Contracts for Professional Services for the City and County of Honolulu dated 08/2000 ("General Terms and Conditions") shall apply to, and are incorporated by reference into the Agreement, except as modified by reference herein. All defined terms in the Agreement shall have the same meaning in these Special Provisions.

I. PROJECT

The Honolulu Rail Transit Project ("H RTP") is described in the Final Environmental Impact Statement as a twenty (20) mile grade separated fixed guideway transit system between East Kapolei and Ala Moana. The CONSULTANT will provide Construction Engineering and Inspection (CE&I) support services for the H RTP West Section to include pre-construction support and construction management services for construction contract compliance, construction scheduling, construction cost estimating support, on-site field oversight, project control and related construction support, herein referred to as the "PROJECT."

II. SERVICES

The CONSULTANT's responsibilities under this Agreement include providing services set forth in the Scope of Work attached hereto and incorporated herein as Exhibit 1.

III. TIME

A. The term of this Agreement is for six (6) years ("Initial Term") commencing with a Notice to Proceed. HART may extend the period of performance of this Agreement for up to an additional three (3) years if compensation to CONSULTANT is provided. The Agreement may be extended pursuant to Section 5 of the General Terms and Conditions at any time prior to the end of the Initial Term by an amendment to the Agreement.

B. This is a multi-term Agreement subject to the availability of funds in accordance with HAR § 3-122-149. Funds are available for only the initial year of the Agreement. The contractual obligation of both Parties in each fiscal period succeeding the first will be subject to the appropriation and availability of funds. HART shall notify the CONSULTANT, on a timely basis, whether or not funds are available for the continuation of the Agreement for each succeeding fiscal period. The Agreement will be terminated if funds are not appropriated or otherwise made available to support continuation of performance in any fiscal period succeeding the initial year of the Agreement; however, this does not affect either HART's rights or the CONSULTANT's rights under any termination clause of the Agreement. If funds are not appropriated or otherwise made available to support continuation of performance in a subsequent fiscal period, the Agreement shall be terminated and the CONSULTANT shall be reimbursed for the unamortized, reasonably incurred, nonrecurring costs.

IV. LIQUIDATED DAMAGES

Liquidated damages shall not apply to this Agreement. Section 6.6 of the General Terms and Conditions, entitled "LIQUIDATED DAMAGES," is hereby deleted in its entirety.

V. INSURANCE REQUIREMENTS

See Paragraph 4.3., Insurance, of the General Terms and Conditions, as modified by Section VII (D) below.

VI. [RESERVED]

VII. MODIFICATIONS TO THE GENERAL TERMS AND CONDITIONS FOR CONTRACTS FOR PROFESSIONAL SERVICES FOR THE CITY AND COUNTY OF HONOLULU (08/2000)

The General Terms and Conditions for Contracts for Professional Services for the City and County of Honolulu (08/2000) shall apply to, and are incorporated by reference into this Agreement, except as modified herein.

A. DEFINITIONS

The following definitions are added to the General Terms and Conditions:

“AIRPORT ALIGNMENT” means the approximately twenty (20)-mile minimum operable segment of the Locally Preferred Alternative identified by Honolulu City Council Resolution No. 08-261.

“C.F.R.” means the Code of Federal Regulations.

“CHIEF PROCUREMENT OFFICER” shall mean and refer to the HART Executive Director and CEO or designee.

“CONFORMANCE CHECKLIST” is the formal checklist used by the Project team to verify design criteria and construction specification conformance for each certifiable element in accordance with the HRTTP Safety and Security Management Plan dated June 1, 2011.

“FEDERAL GOVERNMENT” means the United States of America and any executive department or agency thereof.

“FULL FUNDING GRANT AGREEMENT (“FFGA”) means the designated means for the FTA to provide New Starts funds to projects with a Federal share of \$25 million or more. An FFGA establishes the terms and conditions for Federal financial participation in a New Starts project; defines the project; sets the maximum amount of Federal New Starts funding for a project; covers the period of time for completion of the project; and facilitates efficient management of the project in accordance with applicable Federal statutes, regulations, and policy.

“FTA” means the Federal Transit Administration, United States Department of Transportation. The Federal Transit Administration is the current designation for the former Urban Mass Transportation Administration. Any reference in any law, map, regulation, document, paper, or other record of the United States to the Urban Mass Transportation Administration or its acronym UMTA is deemed a reference to the Federal Transit Administration.

“HART” means the Honolulu Authority for Rapid Transportation. The acronym

“HART” shall be substituted for the **“City and County of Honolulu”**, **“CITY”**, **“Rapid Transit Division”**, and **“RTD”** wherever those terms appear in the General Terms and Conditions, unless the context clearly indicates otherwise.

“MILESTONE” means a defined step toward the completion of Work in the Schedule of Milestones. The Schedule of Milestones, once achieved, shall serve as the basis for payment.

“PMOC” means the FTA’s Project Management Oversight Contractor.

“PMSC” means InfraConsult LLC, the HART Project Management Services Consultant or any successor entity.

“PROJECT” means all Work performed as set forth in the Agreement, including furnishing all services, labor, materials, supplies, equipment and other incidentals reasonably necessary for the successful completion of the Work contemplated under the Agreement.

“STANDARD” or “REQUIREMENT” means any provision of any Federal, State, or City law, code, rule, regulation, guideline, directive, order, circular, agreement, practice, policy, notice, plan, statement, or other standard or requirement, and any amendment or revision thereto made in the future, including any mandatory provision, term, condition, clause, representation, certification, assurance or other statement required thereunder.

“SUBCONSULTANT” means any subcontractor or subconsultant who enters into an agreement with the CONSULTANT or Consultant’s subcontractors at any tier to perform a portion of the Work for the CONSULTANT.

“U.S.C.” means the United States Code.

“U.S. DOT” means the United States Department of Transportation, including its operating administrations.

“WORK” in addition to the definition described in the Agreement for Professional Services, paragraph 1, means Construction Engineering and Inspection (CE&I) support services for the H RTP West Section to include pre-construction support and construction management services for construction contract compliance, construction scheduling, construction cost estimating support, on-site field oversight, project control and related construction support to successfully complete the scope of work covered under this Agreement. In certain cases, the term is also used to mean the products of the Work.

“WORK BREAKDOWN STRUCTURE” (“WBS”) means a hierarchal breakdown of the Scope of Work into components.

The following definitions in the General Terms and Conditions are modified as follows:

“CITY AND COUNTY OF HONOLULU” or “CITY” shall be replaced by **“HART”** whenever those terms appear unless the context specifically indicates otherwise.

“CONSULTANT” or “CONTRACTOR” means any corporation, partnership, individual, sole proprietorship, joint stock company, joint venture, or other private legal entity engaged by HART to perform the Work under this Agreement. For purposes of this Agreement, “Contractor” shall mean “Consultant.”

“DIRECTOR” or “DIRECTOR OF BUDGET AND FISCAL SERVICES” shall be replaced by “HART Executive Director and CEO or designee,” unless the context specifically indicates otherwise.

“OFFICER-IN-CHARGE” means the HART Executive Director and CEO or designee.

B. DESIGNATION OF PROJECT MANAGERS

The Officer-in-Charge will designate a key representative to coordinate the Work under this Agreement, to coordinate work under other HART contracts with the Work under this Agreement, and to act as the liaison between HART and the CONSULTANT in order to assist in expediting the resolution of questions or controversies, the making of HART decisions, and the review and approval by HART of documents, progress reports, requests, and other matters as required.

The CONSULTANT shall, subject to written approval from HART, designate a key representative, who shall maintain close and frequent communication with HART's key representative and be authorized to act on behalf of the CONSULTANT. Any change in the CONSULTANT's key representative will be made by request, in writing, and be approved by HART. The CONSULTANT's key representative shall be experienced and qualified in the type of work involved and shall be directly responsible for the prosecution of the Work under this Agreement.

The Parties to this Agreement will make all reasonable efforts to retain the same key representatives in order to maintain continuity of effort and control.

C. INDEPENDENT CONTRACTOR

Section 4.1 of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

“4.1.1 The CONSULTANT shall perform the work as an independent contractor and shall indemnify and hold harmless HART and all of its officers and employees from death, injuries, losses and damages to persons or property, including reasonable attorneys' fees and cost of defense, caused by the negligent act, errors or omission in the performance of the contract by the CONSULTANT or the CONSULTANT's subconsultants, agents and employees and this requirement shall survive the termination of the Agreement.

The CONSULTANT is an independent contractor and shall not be deemed to be an agent, servant, representative or employee of HART. The contract shall not be construed to create a partnership or joint venture between HART and the

CONSULTANT.”

D. INSURANCE

Section 4.3 of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

“4.3.1 Unless otherwise specified in the Contract Documents, the CONSULTANT shall procure or cause to be procured and maintain (as provided herein), at no cost to HART, during the life of this contract and any extensions thereof, all insurance to cover the CONSULTANT’s operations under this contract, that may be required under the laws, ordinances or regulations of any governmental authority, including but not limited to the coverages below. The CONSULTANT shall either include all tiers of subcontractors, if any, under the policies required under paragraphs 2 through 4, to the extent permitted by law, or shall require all subcontractors to maintain coverages described in paragraphs 1 through 4.

1. Workers Compensation and Employers Liability Insurance.

The CONSULTANT shall maintain workers compensation and employers liability insurance. Workers compensation coverage shall be in accordance with State statutes. Employers liability coverage shall provide limits of not less than \$100,000 each accident for bodily injury by accident or \$100,000 each employee, \$100,000 aggregate, for bodily injury by disease.

2. Commercial General and Umbrella Liability Insurance. The CONSULTANT shall maintain commercial general liability (CGL) and if necessary commercial umbrella insurance with a limit of not less than \$1,000,000 each occurrence, and general aggregate. CGL insurance shall be written on ISO occurrence form, CG 00 01 (or a substitute form providing equivalent coverage), and shall cover liability arising from premises, operations, independent contractors, products-completed operations, personal injury and advertising injury, and liability assumed under an insured contract (including the tort liability of another assumed in a business contract). HART and the CITY shall be included as additional insureds under the CGL, using ISO additional insured endorsement CG 20 10 (or equivalent); such additional insured provisions shall also apply under the commercial umbrella, if any. The policy(ies) shall contain a waiver of subrogation in favor of HART and the CITY.

3. Business Automobile and Umbrella Liability Insurance. The CONSULTANT shall maintain business auto liability (including no-fault coverage) and if necessary, commercial umbrella liability insurance with a limit of not less than \$1,000,000 each accident. Such insurance shall cover

liability arising out of any auto (including owned, hired, and non-owned autos) used by the CONSULTANT in the performance of this contract. Business auto coverage shall be written on ISO form CA 00 01, CA 00 05, CA 00 12, CA 00 20, or a substitute form providing equivalent liability coverage. If necessary, the policy shall be endorsed to provide contractual liability coverage, subject to policy terms and conditions.

4. Professional Liability Insurance. The CONSULTANT shall maintain professional liability insurance with limits of not less than \$1,000,000 per claim/annual aggregate, covering the CONSULTANT and the CONSULTANT's employees or agents for liability arising out negligent acts, errors or omissions in the performance of professional services under the contract. Such insurance shall remain in full force and effect continuously for the period of design and construction of the Work, and for a period of three years following substantial completion of construction, provided that such coverage is reasonably available at commercially affordable premiums, as mutually determined and agreed.

4.3.2 The insurance specified above shall:

1. Provide that insurance specified in 4.3.1.2 and 4.3.1.3 above is primary for claims arising from the CONSULTANT's performance of services or operation of automobiles under this Agreement and that insurance (or self-insurance) carried by HART and/or the CITY shall be excess and non-contributing to CONSULTANT's insurance;
2. Contain a standard Cross Liability coverage providing that the insurance applies separately to each insured, applicable to policies specified in 4.3.1.2 and 4.3.1.3 above;
3. Not be canceled or non-renewed or reduced in limits by endorsement without THIRTY (30) DAYS prior written notice to HART, except for non payment of premium in which case, TEN (10) DAYS notice of cancellation shall be given;
4. Except for Professional Liability insurance required in 4.3.1.4 above, be written on an "Occurrence" form of policy, unless otherwise specifically approved by HART;
5. Be provided by insurers authorized to provide insurance in the State of Hawai'i and with a current Best's rating of not less than A-7 or otherwise approved by HART.

4.3.3 Certificate of Insurance:

1. The CONSULTANT will provide and thereafter maintain current and renewal certificates of insurance, prepared by a duly authorized agent, evidencing the insurance in effect at all times during the term of this contract as required herein to HART. In the event of a claim, the CITY or HART may request, and CONSULTANT shall then provide, a copy of the insurance policies.

2. Certificates shall clearly identify the project by name and/or contract number.

3. Certificates shall show the Certificate Holder as the Honolulu Authority for Rapid Transportation, and be delivered to the Executive Director and CEO, 1099 Alakea Street, Suite 1700, Honolulu, Hawai'i 96813. Certificates shall name the Honolulu Authority for Rapid Transportation and the City and County of Honolulu as additional insured as to General Liability insurances."

E. STANDARD OF CARE

Section 4 of the General Terms and Conditions is hereby revised by inserting the following Section 4.4 as set forth below:

"4.4 Standard of Care

The standard of care applicable to the CONSULTANT's Services will be the degree of skill and diligence normally employed by professional consultants performing the same or similar Services at the time said services are performed. The CONSULTANT will re-perform any services not meeting this standard without additional compensation."

F. MODIFICATIONS

Section 5.1.1 (c) of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

"(c) *Within thirty (30) days* after receipt of a written change order, unless the period is extended by the Officer-in-Charge in writing, the CONSULTANT shall respond with a claim for an adjustment. The requirement for a timely written response cannot be waived and shall be a condition precedent to the assertion of a claim."

Section 5.2 of the General Terms and Conditions is hereby deleted in its entirety and replaced with the following:

"5.2 PRICE ADJUSTMENT.

(a) Any adjustment in contract price pursuant to a clause in the contract shall be made in one or more of the following

ways:

1. By agreement on a fixed price adjustment before commencement of the pertinent performance;
2. By unit prices specified in the contract or subsequently agreed upon before commencement of the pertinent performance;
3. By the costs attributable to the events or situations under such clauses with adjustment of profit or fee, all as specified in the contract or subsequently agreed upon before commencement of the pertinent performance;
4. In any other manner as the parties may mutually agree before commencement of the pertinent performance; or
5. In the absence of agreement between the parties, the provisions of section 103D-501(b)(5), HRS, shall apply.

- (b) Submission of cost or pricing data. The CONSULTANT shall be required to submit cost or pricing data if any adjustment in contract price is subject to the provisions of section 103D-312, HRS. The submission of any cost or pricing data shall be made subject to the provisions of subchapter 15, chapter 3-122, Hawai'i Administrative Rules. A fully executed change order or other document permitting billing for the adjustment in price under any method listed in paragraph (a)(1) through (a)(4) above shall be issued within ten days after agreement on the method of adjustment."

G. SAFETY AND SECURITY CERTIFICATION

A new Section 6.8 of the General Terms and Conditions, entitled "SAFETY AND SECURITY CERTIFICATION," is hereby inserted.

"6.8 SAFETY AND SECURITY CERTIFICATION.

- (a) The purpose of HART's overall safety and security certification process is to ensure that:
1. The design, construction, fabrication, installation, testing, and commissioning of all safety- and security-certifiable elements (civil, structural, and systems) have been evaluated for conformance with the safety and security design criteria and

specifications requirements and to verify their readiness for operational use; and

2. The rail system is operationally safe and secure for customers, employees, emergency responders, and the general public.
- (b) The objective is to achieve an acceptable level of risk through a systematic approach to safety hazard and security vulnerability management, design criteria adherence, specification and construction compliance, and testing and commissioning verification.
- (c) The CONSULTANT shall support HART in implementing HART's safety and security certification process. The CONSULTANT's activities include, but are not limited to, the following:
1. Participate in safety and security committees and working groups established by HART to perform safety and security certification activities as requested.
 2. Provide oversight of the Design-Bid-Build or Design-Build Contractor's Safety and Security verification process to review its conformance in accordance with the Construction Contract Documents.
 3. As required, submit supporting documents using HART's document management system for safety and security certification related activities.

H. FIELD SAFETY AND SECURITY

A new Section 6.9 of the General Terms and Conditions, entitled "FIELD SAFETY AND SECURITY," is hereby inserted.

"6.9 FIELD SAFETY AND SECURITY

- (a) The CONSULTANT is responsible for initiating and maintaining a safety and health program on the oversight activities performed by the CONSULTANT that complies with applicable local, state and federal occupational safety and health regulations, including but not limited to the Hawai'i Administrative Rules, Title 12, Department of Labor and Industrial Relations Subtitle 8, Division of Occupational Safety and Health Part 3, Construction Standards.
- (b) The CONSULTANT shall be familiar with the Honolulu Rail Transit Project Construction Safety and Security Plan (CSSP) current revision and comply with applicable sections, such as, but

not limited to, visitor control, public access, first aid/emergency response, safe work practices, personal protective equipment and safety and security reporting requirements. All personnel who will be accessing field locations must attend the HART Safety and Environmental Orientation.

- (c) The CONSULTANT shall designate at least one person as the Safety and Security Representative (this may be a collateral duty position and/or prime sub-consultant designee). The Safety and Security Representative shall have completed the OSHA 10 Hour Construction Safety Outreach Program or equivalent.
- (d) The CONSULTANT shall ensure employees, subconsultants and/or subcontractors comply with applicable regulations and the SSSP submitted by CONSULTANT for this project.
- (e) The CONSULTANT shall submit a Safety and Security Plan (SSP), which shall address the work of the CONSULTANT. This plan must interface with the CONSULTANT's overall safety and health program and be submitted to the HART Safety and Security Manager for review and acceptance within 30 days of NTP. The plan shall include, but not be limited to, the following elements:
 - 1. Title, signature and phone number of the Plan Preparer (this person must be a qualified person), Company Officer and Safety and Security Representative (SSR).
 - 2. Background information: Provide CONSULTANT name, Contract name and number, description of work to be performed (with attention to field related work).
 - 3. Responsibilities and Lines of Authority. Include a statement of the CONSULTANT's ultimate responsibility for the implementation of the SSP. Identification and accountability of subconsultants, subcontractors and personnel responsible for safety at all levels is required.
 - 4. Safety Policy Statement detailing the CONSULTANT's commitment to providing a safe and healthy workplace for all employees.
 - 5. Training. Provide a statement requiring completion of the HART Safety and Environmental Orientation for all personnel prior to accessing field work locations.
 - 6. List procedures for complying with applicable portions of the CSSP.
 - 7. Emergency Notifications. Develop an emergency notification plan in conjunction with HART.
 - 8. Personal Protective Equipment. At minimum, all personnel,

including visitors, on work site locations associated with the PROJECT shall wear the following PPE:

- i) Head protection complying with ANSI Z89.1-2009 and ANSI Z89.2-2009 shall be worn at all times when on the work site.
 - ii) High visibility, retro-reflective clothing (class 2 or 3) complying with ANSI/ISEA 107, 23 CFR Part 634, MUTCD 6E-3, and 29 CFR 1926.201(a) shall be worn at all times within the traffic work zone.
 - iii) Eye protection complying with ANSI Z87.1-2003 shall be worn at all times when on the work site.
 - iv) Foot protection complying with ASTM F2413-05 or ANZI Z41-1999 shall be worn at all times when on the work site. Work boots are the preferred type of protective footwear. No tennis-type shoes are permitted.
 - v) Hearing protection with a Noise Reduction Rating (NRR) appropriate for the exposure shall be worn by personnel exposed to noise levels in excess of the 29 CFR 1926.101 Table D-2 Permissible Exposure Limit (PEL). When in the field, personnel must have hearing protection readily available for use.
- (f) The CONSULTANT shall enforce the compliance of applicable regulations and the (SSP) amongst its employees, subconsultants and/or subcontractors.
- (g) Notwithstanding the forgoing provisions of this Article 6.9, however, it is understood and agreed that the CONSULTANT is responsible only for construction safety and security in relation to the CONSULTANT's staff and property."

I. KEY PERSONNEL

A new Section 6.10 of the General Terms and Conditions, entitled "KEY PERSONNEL," is hereby inserted as follows.

"6.10 KEY PERSONNEL

(a) The key personnel as specified below are considered essential to the work being performed under this Agreement. The key personnel may not be changed without the consent of the Officer-in-Charge.

(b) Prior to removing, replacing, or diverting any of the specified key personnel, the CONSULTANT shall seek HART's approval by notifying the Project Manager, in writing. The CONSULTANT shall submit information to support the proposed action to enable the Officer-in-Charge to evaluate the potential impact of the change on the Agreement. The CONSULTANT shall not remove or replace key personnel under this Agreement until the Officer-in-Charge approves the change. The Officer-in-Charge shall not unreasonably withhold his consent to remove and replace any key personnel.

(c) The key personnel under this Agreement are:

- 1) Construction Manager – David Brown
- 2) Resident Engineer WOFH DB – Erick Aquilar
- 3) Resident Engineer KHG DB – Robert Thatcher
- 4) Resident Engineer MSG DB – Willie Chiang
- 5) Resident Engineer Pearl Highlands Parking Structure and Bust Transit Center DB– Myong Choi
- 6) Resident Engineer West Stations DBB – Steven Kyauk

(d) Should the CONSULTANT's Construction Manager be replaced for any reason prior to completion of the Agreement, HART's costs shall be reduced by \$250,000. In addition, each time any of the other key personnel are replaced for any reason prior to completion of this Agreement, HART's costs shall be reduced by \$100,000. Cost reductions due to HART under this provision shall be credited to HART within thirty (30) days following the departure of any key personnel identified in Special Provisions 6.9(c) above. The CONSULTANT may request, in writing, that the Officer-in-Charge waive all or part of a reduction if extenuating circumstances exist. The Officer-in-Charge shall have unilateral discretion to waive all or part of a reduction.

(e) If an employee leaves the CONSULTANT's employ for any reason, or if the employee leaves the project due to documented medical, family, or personal conditions beyond the control of the CONSULTANT, the Officer-in-Charge shall waive any monetary reductions."

J. PAYMENT

Section 8.2 of the General Terms and Conditions, entitled "PROGRESS PAYMENT," is hereby deleted in its entirety and replaced with the following:

"8.2 COMPENSATION AND INVOICING

A. This is a cost plus fixed fee contract subject to the General Terms and Conditions. The compensation of the CONSULTANT shall be allowable Costs and a Fixed Fee up to the amount stated in the Agreement and shall be made in accordance with the Contract Cost Estimate and invoicing/payment Schedule in Exhibit 2A and accompanying Schedule A (Cost Estimate Detail), Schedule B (Other Direct Cost Details), and Schedule C (Approved Subconsultant List).

B. HART reserves the right to direct removal from the PROJECT of any CONSULTANT or SUBCONSULTANT employee for any reason and at any time.

C. Reimbursement of CONSULTANT labor-related Work should be invoiced to HART on a monthly basis and shall be accompanied by a schedule with the details identified in Exhibit 2B, paragraph 2.a. The CONSULTANT shall certify that the schedule includes only employees authorized by HART to charge the PROJECT and that the information ties to the CONSULTANT's general ledger. The invoice shall also be accompanied by a report of the work accomplished during the previous month and a list of major Work in progress.

D. Reimbursement to the CONSULTANT for Subconsultant and Other Direct Costs (ODC) shall be made upon submission of Subconsultant and Expense Reimbursement Invoices, which shall include copies of pertinent vendor bills or invoices.

E. Final acceptance of the Work contracted for herein and payment therefore shall not excuse the CONSULTANT from any liability for defects in performance of the Work which may subsequently appear.

K. RETAINAGE

Retainage shall not apply to this Agreement. Section 8.5 of the General Terms and Conditions, entitled "RETAINAGE," is hereby deleted in its entirety.

L. PROMPT PAYMENT BY CONTACTORS TO SUBCONTRACTORS

Section 8.6 of the General Terms and Conditions, entitled "PROMPT PAYMENT TO SUBCONTRACTORS," is hereby deleted in its entirety and replaced with the following:

"8.6 PROMPT PAYMENT BY CONTRACTORS TO SUBCONTRACTORS

- (a) Generally. Any money paid to a contractor shall be disbursed to subcontractors within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes on which the procurement agency has withheld payment.

- (b) Final Payment. Upon final payment to the contractor, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided that there are no bona fide disputes over the subcontractor's performance under the subcontract. The final payment request shall be properly documented as required under HAR § 3-125-23 (4).
- (c) Penalties. The contractor may be subject to a penalty of one and one-half (1 ½) percent per month on the outstanding amounts due that were not timely paid to the subcontractor under the following conditions. Where a subcontractor has provided evidence to the contractor of satisfactorily completing all work under their subcontract and has provided a properly documented final payment request as described in paragraph (d), and:
- (1) Has provided to the contractor an acceptable performance and payment bond for the project executed by a surety company authorized to do business in the state; or
 - (2) The following has occurred:
 - (i) A period of ninety days after the day on which the last of the labor was done or performed and the last of the material was furnished or supplied has elapsed without written notice of a claim given to contractor and the surety, and
 - (ii) The subcontractor has provided to the contractor, an acceptable release of retainage bond, executed by a surety company authorized to do business in the state, in an amount of not more than two times the amount being retained or withheld by the contractor; any other bond acceptable to the contractor; or any other form of mutually acceptable collateral, then, all sums retained or withheld from a subcontractor and otherwise due to the subcontractor for satisfactory performance under the subcontract shall be paid by the procurement officer to the contractor and subsequently, upon receipt from the procurement officer, by the contractor to the subcontractor within the applicable time periods specified in paragraph (b). The penalty may be withheld from future payment due to the contractor, if the contractor was the responsible party. If a contractor has violated paragraph (b) three or more

times within two years of the first violation, the contractor shall be referred by the procurement officer to the contractors license board for action.

- (d) A properly documented final payment request from a subcontractor, as required by paragraph (c), shall include:
 - (1) Substantiation of the amounts requested;
 - (2) A certification by the subcontractor to the best of the subcontractor's knowledge and belief, that:
 - (a) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the subcontract;
 - (b) The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the subcontract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and
 - (c) The payment request does not include any amounts that the subcontractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract; and
 - (3) The submission of documentation confirming that all other terms and conditions required under the subcontract agreement have been fully satisfied.

The procurement officer shall return any final payment request that is defective to the contractor within seven (7) days after receipt, with a statement identifying the defect.
- (e) In case of a construction contract, a payment request made by a contractor to the procurement officer that includes a request for sums that were withheld or retained from a subcontractor and are due to a subcontractor may not be approved under paragraph (c) unless the payment request includes:
 - (1) Substantiation of the amounts requested; and
 - (2) A certification by the contractor, to the best of the contractor's knowledge and belief, that:
 - (a) The amounts requested are only for performance in accordance with the specifications, terms, and conditions of the contract;

(b) The subcontractor has made payments due to its subcontractors and suppliers from previous payments received under the contract and will make timely payments from the proceeds of the payment covered by the certification, in accordance with their subcontract agreements and the requirements of this section; and

(c) The payment request does not include any amounts that the contractor intends to withhold or retain from a subcontractor or supplier in accordance with the terms and conditions of their subcontract.

The procurement officer shall return any final payment request that is defective to the contractor within seven (7) days after receipt, with a statement identifying the defect.

(f) This section shall not be construed to impair the right of a contractor or a subcontractor at any tier to negotiate and to include in their respective subcontracts provisions that provide for additional terms and conditions that are requested to be met before the subcontractor shall be entitled to receive final payment under paragraph (c); provide that any such payments withheld shall be withheld by the procurement officer."

VIII. FEDERAL CLAUSES

FEDERAL FUNDING, INCORPORATION OF FTA TERMS, AND CHANGES TO FEDERAL REQUIREMENTS

This Agreement includes, in part, certain standard terms and conditions required by the FTA, whether or not expressly set forth in the Agreement provisions. All provisions required by the FTA, as set forth in FTA Circular 4220.1F, as amended, will be incorporated by reference. Anything to the contrary notwithstanding, all FTA mandated terms and conditions will be deemed to control in the event of a conflict with other provisions contained in the Agreement. The CONSULTANT shall not perform any act, fail to perform any act, or refuse to comply with any HART requests which would cause HART to be in violation of FTA terms and conditions. This Agreement will be subject to any financial assistance agreement between HART/City and the FTA and all laws, regulations, guidelines, and provisions of the financial assistance agreement will apply to the Agreement and will be incorporated by reference as if fully set forth therein.

The CONSULTANT shall at all times comply with all applicable Federal Government laws and regulations, including without limitation FTA regulations, policies, procedures and directives, including those listed directly or by reference in Applicable Grant Agreements between HART/City and FTA relating to the HRTP, as they may be amended or promulgated

from time to time during the term of the Agreement (collectively, "Federal Requirements"). These Federal Requirements may change and the changed Federal Requirements will apply to this Agreement as required unless the Federal Government determines otherwise. The CONSULTANT's failure to comply with the Federal Requirements shall constitute a material breach of the Agreement.

The Federal Requirements are contained in Exhibit 8, attached hereto and incorporated by reference.

IX. ASSIGNMENT

The CONSULTANT agrees that the CONSULTANT shall not transfer or assign this Agreement in whole or in part, except by an instrument, in writing, approved by HART.

X. HEADINGS; GENDER; NUMBER

The titles of headings of Sections, Subsection and Paragraphs are intended for convenience of reference and shall not be considered as having any bearing on their interpretation.

All words used in the singular shall extend to and include the plural. All words used in the plural shall extend to and include the singular. All words used in any gender shall extend to and include all genders.

XI. COMPLIANCE WITH OMB CIRCULAR A-87 - OFFICE OF MANAGEMENT AND BUDGET

The CONTRACTOR shall at all times comply with the Office of Management and Budget (OMB) Circular A-87, Revised 05/10/2004, which establishes principles and standards for determining costs for Federal awards carried out through grants, cost reimbursement contracts, and other agreements with State, Local, and Indian Tribal Governments. This Circular and its Attachments (A-E) establish the principles and standards to provide a uniform approach for determining allowable costs.

XII. DISPUTE RESOLUTION

Section 10 of the General Terms and Conditions is hereby revised by inserting the following Section 10.6 as set forth below:

"10.6 Dispute Resolution. The Parties will use their best efforts to resolve amicably any dispute, including, but not mandatorily, the use of alternative dispute resolution options."

EXHIBIT "1"

CONSTRUCTION ENGINEERING AND INSPECTION

SCOPE OF SERVICES

FOR

West Section Construction Engineering and Inspection Consultant

Project ID: MM-290

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1.0 PURPOSE:

This scope of services describes and defines the West Section Construction Engineering and Inspection Consultant (CE&I) services which are required for contract administration, observation, inspection, and materials sampling and testing for the construction projects listed below.

2.0 GENERAL:

The Consultant shall provide services as defined in this Scope of Services, the referenced project manuals, and procedures.

The construction contracts for which the CE&I services are required are as follows:

- DB 120 – West Oahu / Farrington Highway Guideway (WOFH)
- DB 320 – Kamehameha Highway Guideway (KHG)
- DBB 185 – West Oahu / Farrington Highway and Kamehameha Station Group (WOSG)
- DB 200 – Maintenance and Storage Facility (MSF)
- DB 275 – Pearl Highlands Parking Structure and Bus Transit Center
- DBB 600 – University of Hawaii-West Oahu Park and Ride / Ho'opili Station Finishes
- MI 930 – Elevators and Escalators

The Consultant shall exercise independent professional judgment in performing services under this Agreement and as allowable within the time and budget constraints.

Services provided by the Consultant shall comply with HART's manuals, procedures, and memorandums in effect as of the date of execution of the Agreement unless otherwise directed in writing by HART. Such manuals, procedures, and memorandums will be provided by HART.

3.0 LENGTH OF SERVICE:

The Consultant services for each construction contract listed in Section 2.0 shall begin upon issuance of a written notification to proceed (NTP) by HART.

For those construction contracts listed above not yet awarded by HART, it is the Consultant's responsibility to track the pending date for NTP of each Construction Contract such that the Consultant is given timely authorization to begin work. While no personnel shall be assigned until written notification by HART has been issued, the Consultant shall be ready to assign personnel within two weeks of the issuance of a NTP for a Construction Contract. For the duration of the Project, the Consultant shall work closely with HART and the selected Contractor to coordinate rescheduling of activities due to construction delays or changes in scheduling of Contractor activities.

For estimating purposes, the Consultant will be allowed an accumulation of thirty (30) calendar days to perform preliminary administrative services prior to the issuance of the Contractor's NTP on those projects which have been awarded and are active and thirty (30) calendar days to demobilize after final completion and acceptance of the last Construction Contract completed.

The anticipated letting schedules for the construction contracts are tabulated below:

Financial Project ID	Description	Advertise Date (Mo/Day/Yr)	Start Date (Mo/Day/Yr)
DB-120	West Oahu/Farrington Hwy Guideway	Active	Active
DB-320	Kamehameha Guideway	Active	Active
DB-200	Maintenance and Storage Facility	Active	Active
DBB-185	West Side Stations Construction	02/15/2014	06/01/2014
DB-275	Pearl Highlands Parking Structure/Transit Center	01/01/2014	07/01/2014
DBB-600	UH West Oahu PnR and Ho'opili Station Finishes	09/10/2014	03/12/2015
MI -930	Elevators and Escalators	12/01/2012	8/2/2013

4.0 **DEFINITIONS:**

- A. **Agreement:** The Professional Services Agreement between HART and the Consultant setting forth the obligations of the Parties thereto, including but not limited to the performance of the work, furnishing of services, and the basis of payment.
- B. **Contractor:** For the purposes of this document, the individual, firm, or company contracting with HART for performance of work or furnishing of materials through a design-build, design-furnish-install-maintain or design-bid-build contract.
- C. **Construction Contract:** The written agreement between HART and the Contractor setting forth the obligations of the Parties thereto, including but not limited to the performance of the work, furnishing of labor and materials, and the basis of payment.
- D. **Project Manager:** The HART employee with direct report to the HART Deputy Director for Construction and will provide project management oversight of the construction contract he/she is assigned.
- E. **Consultant:** The Consulting firm under contract to HART for administration of Construction Engineering and Inspection services.
- F. **Engineer of Record:** The Engineer noted on the Construction plans as the responsible person for the design and preparation of the plans.
- G. **HART:** Honolulu Authority for Rapid Transportation.
- H. **Resident Engineer:** The employee assigned by the Consultant to oversee project specific compliance functions.

5.0 ITEMS TO BE FURNISHED BY HART TO THE CONSULTANT:

5.1 Construction Contract Documents. HART, on an as needed basis, will furnish the following documents for each Construction Contract. These documents may be provided in either paper or electronic format.

1. Construction Plans,
2. Specification Package,
3. Copy of the Executed Construction Contract, and
4. Contractor's baseline and current schedule and budgets.

5.2 Field Office. Field Offices will be provided by HART with sufficient room and furnishings (desks, conference tables, chairs, book shelves, file cabinets, dry erase boards, etc.) to effectively carry out their responsibilities under this Scope of Services.

5.3 Telephone System and Service. Field office telephone system and service will be provided by HART. This does not include cellular phones.

5.4 Computer Network and Equipment. HART will provide all required equipment for internet broadband access to all work stations within the field office as well as access to local file server and HART's main file server.

5.5 General Office Equipment. HART will provide all necessary file servers, multi-functioning copiers (with print/color/scanner/email capabilities), and 11x17 printers including all supplies, service and maintenance.

6.0 ITEMS FURNISHED BY THE CONSULTANT:

Items furnished by the Consultant will be reimbursed as an Other Direct Cost (ODC) in accordance with the Agreement.

6.1 Office Automation and Communications:

Unless specified as provided by HART, provide all software and computer hardware necessary to efficiently and effectively perform Consultant services. This includes the following:

- Desktops, laptops, tablet computers.
- Software packages and support for Contract Management System (CMS). HART will provide permissions to appropriate modules for each user.
- Field equipment (cellular phones and cameras).

Ownership and possession of computer equipment and related software, which is provided by the Consultant, shall remain at all times with the Consultant. The Consultant shall retain responsibility for risk of loss or damage to said equipment during performance of this Agreement. Field office equipment should be maintained and operational at all times.

6.2 Field Office:

- Work with HART to specify the requirements of the future field offices to be included in the Construction Contracts.

6.3 Vehicles:

The type and number of vehicles provided by the Consultant shall be able to support the field services efficiently. Vehicles will be equipped with appropriate safety equipment. Vehicles shall have approved designations displayed on both sides of the vehicle.

6.4 Field Equipment:

Provide the following:

- Supply survey, inspection, and testing equipment essential to perform services including non-consumable and non-expendable items plus expendable materials.
- Hard hats shall have HART approved designations visibly displayed.

Equipment described herein will remain the property of the Consultant and shall be removed at completion of the work. The Consultant retains responsibility for risk of loss or damage to said equipment. Field office equipment shall be maintained and in operational condition at all times.

6.5 Licensing for Equipment Operations:

Obtain licenses and equipment for personnel operating equipment as required to perform CE&I services. The license and supporting documents shall be available for verification by HART, upon request.

Radioactive Materials License for use of Surface Moisture Density Gauges shall be obtained using the protocol established by the Nuclear Regulatory Commission (NRC).

7.0 LIAISON RESPONSIBILITY OF THE CONSULTANT:

For the duration of the Agreement, keep HART's Deputy Director of Construction and HART's Project Managers informed of significant activities, decisions, correspondence, reports, and other communications related to the scope of services.

Facilitate communications between all parties (i.e., architectural, mechanical, materials, landscaping, local agencies, etc.) to obtain responses and resolutions in a timely manner. Maintain accurate records to document construction activities.

The Consultant's Resident Engineer shall serve as the single point of contact for the day-to-day operations with each Construction Contractor for administrative matters of the Construction Contracts assigned.

8.0 PERFORMANCE OF THE CONSULTANT:

During the term of the Agreement and all Supplemental Amendments thereof, HART will review various phases of Consultant operations, such as construction observation, materials sampling and testing, and administrative activities, to determine compliance with the scope of services. The

services provided will depend on the Construction Contract delivery method, either design-build or design-bid-build. Cooperate and assist HART representatives in conducting the reviews. If deficiencies are indicated, remedial action shall be implemented immediately. HART recommendations and Consultant responses/actions are to be properly documented by the Consultant. Remedial actions and required response times may include but are not necessarily limited to the following:

- A. Further subdivide assigned observation and/or inspection responsibilities, reassign inspection personnel, or assign additional inspection personnel if budget permits, within one week of notification.
- B. Immediately replace personnel whose performance has been determined by the Consultant and/or HART to be inadequate.
- C. Increase the scope and frequency of training of the Consultant personnel.

9.0 STAFFING:

Once authorized, the Consultant shall establish and maintain appropriate staffing throughout the duration of construction and completion of contract closeout. Responsible personnel, thoroughly familiar with all aspects of construction and final measurements of the various pay items, shall be available to resolve disputed final pay quantities until HART has received a regular acceptance letter.

The Consultant shall provide qualified construction engineering and field oversight staff to perform services. If Contractor operations are substantially reduced or suspended, for any of the Construction Contracts, the Consultant will reduce its staff appropriately.

In the event that the suspension of Contractor operations requires the removal of Consultant forces from the project, the Consultant will be allowed ten (10) days maximum to demobilize, relocate, or terminate such forces.

The Consultant shall include a budgeted pool of person-hours in their final staffing plan based on 15% of the total proposed person-hours for non-exempt staff including positions listed in the Work Breakdown Structure (WBS) under inspection, materials testing and administration. At the request of HART, the Consultant shall provide additional management support that will be drawn from this budgeted pool of person-hours.

Unless otherwise agreed to by HART, HART will not compensate straight overtime or premium overtime for exempt staff. Any overtime must be approved by HART prior to expending overtime hours.

The Consultant shall provide the following staff whose duties are generally described below:

- A. Construction Manager.** Responsible for overall management of the CE&I Team and overall delivery of the CE&I scope of services. Coordinates the West Section CE&I Team efforts with HART's Management Team and the East Section CE&I Team. Coordinates the efforts of key specialty resources for strategic efforts including specialty construction support, design and constructability reviews, civil/systems integration, permitting, and stakeholder liaisons.

- B. Resident Engineer.** Primarily responsible for reviewing the Contractor's work in accordance with the Contract Documents and enforcing the contract where non-conformance is identified. Primary point of contact on contract related matters between HART and the Construction Contractor. Makes contractual decisions within designated authority and coordinates HART's overall determinations on contract matters. Manages and directs the work of assigned lead engineers, office engineers, inspectors, and quality oversight representatives who review the Contractor's work. Directs the necessary tasks to administer the construction contracts.
- C. Project Controls Manager.** Leads, manages and coordinates the project controls efforts of the project controls staff, including the change and claims engineers, schedulers, cost estimators, document control, risk management, and contract specialist resources. Develops construction program cost forecasts and scheduling reports.
- D. Project Controls Engineer.** Manages the uniform use of project management and information systems such as CMS. Assists in configuring the CMS workflows and reporting features customized to the respective construction contracts. Implements the field construction technologies, such as the cloud-based tablet software systems. Reviews the status and use of information management systems to continue to promote efficiency and consistency within the team.
- E. Scheduler.** Reviews and analyzes Contractor baseline, monthly update, and time impact schedules per the scope of services. Analyzes and reports on manpower and installation productivity.
- F. Cost Estimator.** Provides independent cost estimates, Contractor's cost proposal analysis, cost model validation, and as-needed design support estimates.
- G. Document Controls.** Develops, maintains, and monitors the implementation of the document control system across the contracts to provide a platform for consistent storage, distribution and archiving of construction related documentation.
- H. Claims and Changes Engineer.** Evaluates major contractor claims and changes from a merit, cost impact, and time analysis perspective. Supports field staff as-needed to mitigate and negotiate major claims and changes.
- I. Quality Assurance Auditor.** Develops and implements the Consultant's Quality Assurance Plan. Performs semi-annual quality assurance reviews to review the Consultant's compliance with the requirements of the CE&I Scope of Services and in accordance with the approved Quality Assurance Plan. Develop quality assurance report findings after each semi-annual reviews and provides recommendations to the Construction Manager.
- J. Lead Engineer.** Serves as a deputy to the Resident Engineer and spearheads the resolution of technical and coordination matters. Coordinates with the technical representatives of HART, the GEC and the East Section CE&I Team as well as third party stakeholders. Leads the oversight efforts of the respective CE&I team for project interface and integration.

- K. Office Engineer.** Responsible for supporting respective Resident Engineer and observes that the work complies with engineering standards, codes, specifications, and design plans and specifications. Responsibilities include plan and specifications review, processing submittals, RFIs, managing and tracking change orders, maintaining as-builts as work is completed. May also assist the client with monitoring for required permits and approvals.
- L. Lead Inspector.** Responsible for coordinating and managing the efforts of the field oversight staff for a particular construction contract in accordance with the On-Site Observations and Inspections scope of work. This staff consists of Construction Compliance Monitors on design-build contracts and Inspectors on design-bid-build contracts. Monitors project activities related to construction site work and coordinates the field oversight efforts accordingly. Performs observation duties at various stages of construction for contract compliance. Reviews the work of assigned staff.
- M. Construction Compliance Monitor.** Audits the Design-Builder's construction and environmental field activities for general compliance with the Construction Contract. Performs work in accordance with the On-Site Observations and Inspections scope of services relative to design-build contracts.
- N. Inspector.** Conducts periodic and selected daily observations of the Contractor's work to determine general compliance with the Construction Contract. Performs work in accordance with the On-Site Observations and Inspections scope of services relative to design-bid-build contracts.
- O. Elevators and Escalators Manager.** Supports HART in the administration of the elevators and escalators contract and the implementation of the work into the various West Section CE&I facilities. Coordinates with the Stations Inspectors for the field oversight and documentation of the installation of elevators and escalators in general compliance with the contract documents and specifications.
- P. Third Party and Utility Coordinators.** As-needed support staff that serves as a liaison for stakeholder and utility agencies. Assists with permitting and unexpected challenges while helping to identify any possible obstacles along with proposed solutions.
- Q. Materials Testers.** Provide quality assurance (QA) materials sampling and testing services on an intermittent and suspect basis as directed by Resident Engineers to validate the Contractor's Quality Control sampling and testing program.
- R. Surveyor.** Performs quality assurance surveys to spot-check each Contractor's work on an intermittent and suspect basis as directed by Resident Engineers to validate the Contractor's survey.
- S. Public Outreach.** As-needed staff supporting HART's public information services. Performs work at the direction of HART public information staff, which may include

preparing and distributing material; representing HART during community projects and at public, social and business gatherings; and arranging public information programs.

- T. Environmental Monitor.** Supports the HART Environmental Manager in the observation and documentation of the contractor's compliance to the construction documents and environmental requirements. Conducts periodic field observations of the construction pre-activity and activity during construction activities. Prepares reports, photo logs, and documentation in support of the HART Environmental Manager.
- U. Labor Compliance Support.** Supports the HART Civil Rights Officer in accordance with the Labor Compliance Scope of Services of the Consultant.
- V. Administrative Assistant.** Supports the project staff and maintains administrative and project office details. Coordinates with the Document Control Manager for document control activities on assigned contract. This includes records/file management, archiving, document control, ordering office supplies, maintaining office equipment and performing various administrative tasks. Provides general administrative assistance to the project team.

10.0 SCOPE:

10.1 General

The Consultant shall administer, monitor, and observe the Construction Work such that the projects are constructed in general conformity with the plans, specifications, and special provisions for the Construction Contracts.

Observe the Contractor's work to determine the progress of work and general construction compliance to the Construction Contracts. Document discrepancies observed, report significant discrepancies to HART, and issue NCRs or corrective action requests to the Contractor to correct such observed discrepancies and/or their quality management system.

Inform the HART Project Manager of any significant omissions, substitutions, defects, and deficiencies noted in the work of the Contractor and the corrective action that has been directed by the Contractor to be performed by the Contractor.

10.2 Pre-Construction Services

Provide the following pre-construction services:

- **Pre-Construction Meeting.** Conduct a pre-construction meeting for each Construction Contract. Provide appropriate staff to attend and participate in the meeting.
- **Environmental Briefing.** Schedule and conduct a meeting with the HART Environmental Manager prior to the Pre-construction meeting. The purpose of this meeting is to discuss and coordinate the required oversight of the Contractor's environmental compliance by both HART and CE&I staff.

- HART Construction Management Procedures (CMP). Review and revise the HART CMP.
- Project Management Plan. Provide a project management plan within thirty (30) days of NTP.
- Transition Plan. Work with HART and provide a transition plan within ten (10) working days of NTP.

10.3 Resident Engineering Staff:

Assign Resident Engineers, Lead Engineers, Office Engineers, Change Management, Project Controls, Inspection Oversight and Administrative staff when necessary to administer the construction contracts. The Resident Engineers shall act within the limits of authority as designated by HART. The duties of the Resident Engineer, as supported by field staff, shall include:

- Enforce the requirements of the construction contracts assigned.
- Document contractual actions accurately.
- Interface with entities, as required by HART, to coordinate the work.
- Interface management and coordination between the separate construction contracts assigned.
- Manage submittals, request for information, and change process.
- Review progress payments as pertaining to each assigned construction contract and facilitate prompt processing of such information.
- Conduct weekly construction meetings with the Contractor, including the preparation of agendas and meeting minutes.
- Prepare cost reports, including forecasted cost at completion.
- Provide document control services, including the input of construction documents into CMS as well as scanning, attributing and retrieving documents that are to be archived electronically. File, store, retrieve and distribute documents electronically and by hardcopy.
- Review as-built drawings.
- Prepare non-conformance reports and track resolution of those items identified by the CE&I.
- Analyze issues that arise on the project and proposals submitted by the Contractor. Work to resolve such issues, and process the necessary paperwork.
- Prepare and submit to the Deputy Director of Construction the following reports:
 - Construction Management Status Report – A monthly report in a format to be provided by HART. The report shall include the compilation of all Resident Engineer Monthly Reports for that month.
 - Resident Engineer Monthly Reports – Prepare and submit Resident Engineer Monthly Reports in accordance with the project procedures.
 - Resident Engineer Weekly Reports – Prepare Resident Engineer weekly reports highlighting significant events or issues each week. Include key construction progress photos.
- Prepare and make presentations for meetings and hearings in connection with the project covered by this Agreement. The various meeting requirements for the CE&I consultant are set forth in the HART Resident Engineer manual which by reference is part of the Contract requirements, including the requirements to hold Job Site Progress Meetings on a weekly basis.

10.4 On-site Observations and Inspections:

The Consultant shall provide field oversight staff which will consist of Construction Compliance Monitors on design-build contracts and Inspectors on design-bid-build contracts.

Construction Compliance Monitors shall audit the Design-Builder's construction and environmental field activities for general compliance with the Construction Contract. Inspectors shall conduct periodic and selected daily observations of the Contractor's work to determine general compliance with the Construction Contract. Such observations shall be conducted at established hold and witness points if provided for within the Construction Contract.

Field oversight staff shall:

- Observe the contractor's construction and installation work in accordance with the plans, specifications, and special provisions for the Construction Contract to determine that work observed is constructed in general conformance with such documents.
- Document construction activities observed on a daily basis in a daily diary, provide photographic records, and track completed work.
- Assist in reviewing contractor progress payments.
- Provide field support services for submittals, RFIs, and requests for contract change orders.
- Notify the Resident Engineer of any observed non-conformances and assist in the issuance of non-conformance reports as required.
- Document as-built conditions as observed.
- Monitor and document change order work in the field. Document labor and equipment expenditures on force account work.
- Perform surveillances of the Contractor's Quality Control activities, including the Contractor's sampling and testing of materials.
- Designated staff shall monitor Contractor's Work Zone Traffic Control Plan and review modifications to the Work Zone Traffic Control Plan, including Alternate Work Zone Traffic Control Plan, in accordance with HART's procedures. Consultant employees performing such services shall be qualified in accordance with HART's procedures.

A. Frequency and Quantity of Services

The frequency and quantity of field oversight services will depend on the magnitude of construction activity for all construction projects in-progress as well as the overall performance of the Contractor as mutually agreed with HART. The frequency and quantity of field oversight services shall decrease if the quality of field work provided by the Contractor is trending positively with limited observations of non-conformance or other construction discrepancies and the Contractor is providing adequate quality management per the Construction Contract. The frequency and quantity of field oversight services shall remain constant or increase if the quality of the construction work is not trending positively or the Contractor is not providing adequate quality management per the Construction Contract.

B. Assumptions

- HART will monitor off-site activities and fabrication unless otherwise stipulated by the Agreement. The Consultant shall provide technical support for HART source inspections as requested by HART.
- Field oversight, compliance monitoring and inspection by the Consultant shall not relieve the Contractor in any way from its full obligations and responsibilities under the Construction Contract. The Consultant shall not be responsible for construction means, methods, techniques sequences and procedures employed by the Contractor in the performance of its contract, and shall not be responsible for the failure of the Contractor to carry out work in accordance with the Contract. Construction means, methods, safety and corrective measures remain the responsibility of the Contractor.

10.5 Surveying:

Perform quality assurance surveys to spot-check each Contractor's work on an intermittent and suspect basis as directed by Resident Engineers to validate the Contractor's survey. Check the survey control baseline(s) along with sufficient baseline control points and benchmarks at appropriate intervals along the project. The cost estimate and budget for CE&I services includes an allowance for check survey services.

The Consultant will provide periodic survey checks of the Contractor's activities throughout the West Section project limits. The frequency of the survey checks will be at the discretion of the Consultant and will increase or decrease based on the Contractor's performance and compliance with the contract documents. It will be the responsibility of the Contractor(s) to establish the project survey control and verification of all construction elements throughout the West Section project limits.

10.6 Materials Sampling and Testing:

The Construction Contractor will provide primary materials testing and sampling for Quality Control of the work. The CE&I Consultant shall provide quality assurance (QA) materials sampling and testing services on an intermittent and suspect basis as directed by Resident Engineers to validate the Contractor's Quality Control sampling and testing program.

The Contractor will be responsible to provide the minimum sampling frequencies set out in HDOT's Materials Sampling, Testing and Reporting Guide. The frequency of the sampling and testing performed by the Consultant will be at the discretion of the Consultant and will increase or decrease based on the Contractor's performance and compliance with the contract documents. The cost estimate and budget for CE&I services includes an allowance for materials sampling and testing services.

The Consultant shall prepare and submit a materials sampling and testing program for the Consultant's quality assurance oversight efforts.

Documentation reports on sampling and testing performed by the Consultant shall be submitted within one week of the performance of the construction work. The Consultant shall document the materials testing and sampling program in the appropriate module of CMS as designated by HART.

10.7 Construction Cost Estimates

Prepare construction cost estimates to support the negotiation and substantiation of construction change orders.

10.8 Contractor Schedule Reviews

Analyze the Contractor's schedules for compliance with the contract documents. Elements including, but not limited to, completeness, logic, durations, activity, flow, milestone dates, concurrency, resource allotment, and delays will be reviewed. Review the schedule in conformance with the contract constraints, including contract modifications. Provide a written review of the schedule identifying significant omissions, improbable or unreasonable activity durations, errors in logic, and any other concerns. Schedules that shall be reviewed include, but are not limited to the following:

- Preliminary Schedule
- Baseline Schedule
- Monthly Schedule Updates
- Time Impact Analyses
- Look-ahead schedules
- As-Built schedules

10.9 Environmental Monitoring

Work with HART's designated environmental manager to monitor the Contractor's performance of environmental monitoring and mitigation requirements of the Construction Contract. Provide an environmental monitor to support HART's environmental manager. Provide revisions to HART's Environmental Monitoring Plan to coordinate the CE&I role in HART's overall environmental monitoring efforts.

Perform random water quality testing of surface water to review the results of the BMP's of the various contractors against the permitting requirements in terms of preventing pollutants from entering the storm water collection points or affecting surface water. Any problems identified will be the responsibility of the Contractor to remedy, if necessary. The Contractor has the primary responsibility to perform monitoring of water quality and the CE&I's testing shall serve as quality assurance of the Contractor's monitoring activities.

10.10 Third Party Coordination

Provide field support to HART's designated manager for third party agreements. Coordinate the Construction Contract administration activities of all parties other than the Contractor involved in completing the construction project. Notwithstanding the above, the Consultant is not liable to HART for failure of such parties to follow written recommendations issued by the Consultant or for failure of such parties to comply with their agreements with HART.

10.11 Labor Compliance

Labor Compliance. The Consultant shall provide a Labor Compliance Specialist in support of the HART Civil Rights Officer. Typical areas of compliance responsibility

include EEO Affirmative Actions for the prime contractor and subcontractor, DBE Affirmative Action, Contractor Formal Training, Payroll, and Subcontracts.

The Labor Compliance Specialist shall:

- Conduct field surveillance of the Contractor's compliance for West Section Construction Contract labor requirements.
- Review, monitor, evaluate, and act upon documentation required for Construction Contract Labor compliance.
- Maintain labor compliance files. Keep related documents and correspondence accurate and up to date.
- Attend compliance reviews and furnish the relevant project files for review.
- Assist the HART Civil Rights Officer as requested.
- Schedule and attend a meeting with the HART Compliance Manager prior to each Pre-construction Conference.

The Labor Compliance Specialist shall coordinate with the East Section CE&I Labor Compliance Specialist in an effort to provide a consistent approach to labor compliance.

10.12 Public Information Services

HART will provide Public Information Services. The Consultant shall provide coordination and support to HART's public information services.

10.13 Video and Photographic Documentation

Provide the following video and photographic documentation:

A. Pre-Construction Video and Photographic Documentation

As requested by HART, the Consultant will document pre-construction conditions throughout the project limits as follows:

- Videotape the pre-construction conditions. The videography shall have time, date and location specific information.
- Photograph the pre-construction state of select locations along the alignment. These photographs will be filed and maintained on the Consultant's computer using a Digital Photo Management system.

B. Construction Photography

In conjunction with Field Reports provided by field oversight staff, provide a digital photo log of project activities, with an emphasis on potential claim items and project related issues.

C. Aerial Photography

Provide Aerial photographs of the right-of-way/project limits under the West Section CE&I contract as follows:

- Work with HART to determine the appropriate altitude to obtain aerial photography.

- Aerial photography shall be captured on a monthly basis until work is complete on the West Section CE&I construction activities.
- Provide six aerial photographs per mile to reflect the construction operations and progress of the work. Photographs shall be clean, sharp, and clearly show details. Each frame shall allow for a 15% to 25% overlap. The shutter speed should be such that all motion is eliminated. The name and date of the company that performed the work shall be on the back of all photographs.
- The photographs shall be reviewed by the Deputy Director of Construction, and a CD of the Aerial Photographs will be provided on a monthly basis for use by HART.

10.14 Geotechnical Engineering:

Provide Geotechnical Engineering support to review geotechnical engineering issues and differing site condition claims of the Contractor.

10.15 Quality Assurance (QA) Program:

Quality Assurance Plan:

Within thirty (30) days after NTP, the Consultant shall furnish a QA Plan to the HART Deputy Director of Construction. The QA Plan shall detail the procedures, evaluation criteria, and instructions of the Consultant's organization for providing services. The Consultant may adopt or revise HART's Quality Management Plan as the Consultant's QA Plan.

Significant changes to the work requirements may require the Consultant to revise the QA Plan. It shall be the responsibility of the Consultant to keep the plan current with the work requirements. The Plan shall include, but not be limited to, the following areas:

A. Organization:

A description is required of the Consultant QA Organization and its functional relationship to the part of the organization performing the work under the Agreement. The authority, responsibilities and autonomy of the QA organization shall be detailed as well as the names and qualifications of personnel in the quality control organization.

B. Quality Assurance Reviews:

Detail the methods used to monitor and achieve organization compliance with Agreement requirements for services and products.

C. Quality Assurance Records:

Outline the types of records which will be generated and maintained during the execution of the QA program.

D. Control of Subconsultants and Vendors:

Detail the methods used to control subconsultant and vendor quality.

Quality Assurance Reviews:

Conduct semi-annual Quality Assurance Reviews to ensure compliance with the requirements of the Agreement. Quality Assurance Reviews shall be conducted to evaluate the adequacy of materials, processes, documentation, procedures, training, guidance, and staffing. Quality Assurance Reviews shall also be developed and performed to achieve compliance with specific QA provisions contained in the CE&I scope of services. The semi-annual reviews shall be submitted to the Deputy Director of Construction in written form no later than one (1) month after the review.

Quality Records:

Maintain adequate records of the quality assurance actions performed by the organization (including subcontractors and vendors) in providing services and products. All records shall indicate the nature and number of observations made, the number and type of deficiencies found, and the corrective actions taken. All records shall be available to HART, upon request, for the duration of the Agreement. All records shall be kept at the primary job site and shall be subject to audit review.

10.16 Safety and Security Plan

Prepare and submit a safety and security plan that describes the safety and security practices for the Consultant's staff within thirty (30) days after NTP.

11.0 CONSULTANT DELIVERABLES:

The following management plan deliverables shall be provided as specified in the scope of services:

Item	Deliverable	Days after NTP
1	Construction Management Plan (Review/Revise)	30 Days
2	CE&I Project Management Plan	30 Days
3	CE&I Safety and Security Plan	30 Days
4	Quality Assurance Plan	45 Days
5	Environmental Monitoring Plan (Review/Revise)	45 Days
6	Materials Sampling and Testing Plan	45 Days
7	Transition Plan	10 Days

Honolulu Rail Transit Project

EXHIBIT 2A
COST ESTIMATE

Cost Description	Total
Total Estimated Direct Labor Costs (incl. Overhead):	\$22,301,640.00
Fixed Fee:	\$4,350,155.00
Other Direct Costs:	\$3,940,330.00
Total Estimated Subconsultant Costs:	\$21,199,914.00
Sub-Total:	\$51,792,039.00
GET Taxes (@4.712%):	\$2,440,441.00
Total Aggregate Amount:	\$54,232,480.00

Schedule A: Cost Estimate Detail
Schedule B: Other Direct Cost Details
Schedule C: Approved Subconsultant List

Honolulu Rail Transit Project

EXHIBIT 2A
SCHEDULE A
COST ESTIMATE DETAIL

Cost Description	Total
Total Estimated Direct Labor Costs:	redacted pursuant to
Total Overhead (Direct Labor):	HRS 92F
Fixed Fee:	\$4,350,155.00
Other Direct Costs – Reimbursable:	redacted pursuant to
Other Direct Costs – Cost of Living:	HRS 92F
Total Estimated Subconsultant Costs:	\$21,199,914.00
Sub-Total:	\$51,792,039.00
GET Taxes (@4.712%):	\$2,440,441.00
Total Aggregate Amount:	\$54,232,480.00

Honolulu Rail Transit Project

EXHIBIT 2A
SCHEDULE B
OTHER DIRECT COST DETAILS

<u>Item</u>	<u>Description</u>	<u>Total Cost</u>
1	Office Supplies/Equipment	
2	Survey Equipment	
3	Materials Testing/Testing Lab	
4	Cameras and Video Equipment	
5	Monthly Aerial Photos	
6	Inspectors' Tablets/Services	
7	Personal Protective Equipment	
8	Pool Vehicles/Fuel/Maint./Ins.	
9	Vehicle Safety Equipment	
10	Cell Phones	
11	Training	
12	Oracle Primavera/CM	
13	Construction Software, Devices and Services	
14	Special Reproductions	
15	Overnight Mail and Postage	
16	Miscellaneous Per HART written Authorization	
17	Relocation/TDA	
18	Travel	

Estimated	
Other Direct	
Costs	<u>\$ 3,940,330.00</u>

EXHIBIT 2A

SCHEDULE C

APPROVED SUBCONSULTANT LIST

CH2M HILL, Inc.

Bowers + Kubota Consulting, Inc.

Bow Construction Management Services, Inc.

Bright Light Marketing Group

Construction Engineering Labs, Inc.

Element Environmental, LLC

Engineers Surveyors Hawaii, Inc.

PSC Consultants, LLC

Scientific Consultant Services, Inc.

EXHIBIT 2B
COMPENSATION AND INVOICING

1. Subject to the provisions set forth in this Agreement, the CONSULTANT will be paid on a monthly basis by HART for authorized and satisfactorily completed work and services rendered under this Agreement. Such payment shall be full compensation for work performed and services rendered, for all supervision, labor, supplies, materials, equipment or use thereof, taxes, and for all other necessary incidentals. The amount to be paid to the CONSULTANT shall be computed as hereinafter set forth; provided that such payment shall not exceed the amount of FIFTY-FOUR MILLION TWO HUNDRED THIRTY-TWO THOUSAND FOUR HUNDRED EIGHTY AND 00/100 DOLLARS (\$54,232,480.00) (hereinafter called the "Total Price"), which includes all costs and fees associated with this Agreement, subject only to authorized adjustments as specifically provided in this Agreement. In the event the CONSULTANT incurs costs, fees or other compensation in excess of the Total Price, adjusted as provided herein, the CONSULTANT shall pay such excess from its own funds and HART shall not be required to pay any part of such excess and the CONSULTANT shall have no claim against HART on account thereof.

2. Compensation for work and services shall be on a cost plus fixed fee basis but not to exceed the Total Price.

Cost:	\$49,882,326.00
Fixed Fee:	<u>\$ 4,350,155.00</u>
Total Price:	\$54,232,480.00

Compensation shall be the sum of direct labor costs, indirect costs, subconsultant costs including other direct costs, CONSULTANT other direct costs, fixed fee and General Excise and Use Tax as described below. Costs to be paid are identified in the "Contract Cost Estimate" schedule, which is attached hereto as Exhibit 2A and incorporated herein by this reference, and comprise the following:

a. Direct Labor Costs. Direct labor costs shall be the total number of hours worked on the PROJECT by each authorized employee multiplied by the employee's regular hourly rate. Employees' direct hourly rates shall not be increased by more than three percent (3%) for any twelve-month period during the term of this Contract. The list of employees authorized to charge to the PROJECT shall be named in Exhibit 2D ("Approved Personnel List"). Requests by the CONSULTANT to add employees to the Approved Personnel List shall be submitted in writing to HART for approval. The request will identify the individual by name, position, primary task to be assigned, estimated hours, current raw hourly rate and the overhead rate applicable for the charges. Charges made by employees who are not on the Approved Personnel List at the time the charges were incurred will not be reimbursed by HART. Employees who are no longer authorized to charge to the PROJECT will be removed from the Approved Personnel

Honolulu Rail Transit Project

List. In no event shall overtime be classified or billed as direct labor without prior HART approval.

b. Indirect Costs. Indirect costs shall be the product of all direct labor costs multiplied by an overhead rate. The Parties agree that the Negotiated Overhead Rates shown in Exhibit 2C shall be used for the purpose of invoicing for the period ending December 31, 2014. The CONSULTANT's overhead rates are to be calculated on an annual basis and are to be prepared on the basis of accounting practices prescribed by Part 31, Subparts 31.1 and 31.2 of the Federal Acquisition Regulations and be supported by a "Report of Independent Auditors". Facilities, services and equipment (except for computers) for "Project Office" CONSULTANT staff will be provided by HART. Computers are included in the CONSULTANT's Negotiated Overhead Rates. The CONSULTANT's Negotiated Overhead Rates will be reviewed annually by HART and adjusted if deemed acceptable to HART. The initial Negotiated Overhead Rates are contained in Exhibit 2C and are incorporated by this reference. These initial Negotiated Overhead Rates shall be used from date of Notice to Proceed until December 31, 2014.

c. Other Direct Costs. Other Direct Costs shall be billed at cost without markup by the CONSULTANT and shall include actual authorized expenses incurred by the CONSULTANT for PROJECT work that is identified in the Contract Cost Estimate which is attached hereto as Exhibit 2A, Schedule B and incorporated herein by reference.

d. Fixed Fee. HART shall pay the CONSULTANT a fixed fee of FOUR MILLION THREE HUNDRED FIFTY THOUSAND ONE HUNDRED FIFTY-FIVE AND 00/100 DOLLARS (\$4,350,155.00). Such fixed fee is included in the Total Price set forth above. It is understood and agreed that the fixed fee is only due and payable for the PROJECT work for which HART has given Notice to Proceed and for which the CONSULTANT has satisfactorily completed. The fixed fee will be prorated and paid monthly in proportion to the CONSULTANT's direct labor and overhead for work satisfactorily completed. The proportion of work completed shall be documented by invoices. A payment for an individual month shall include that approved portion of the fixed fee allocable to the PROJECT work satisfactorily completed during said month and not previously paid. Any portion of the fixed fee not previously paid in the monthly payments shall be included in the final payment. HART may permit an increase in the fixed fee only due to "Additional Work" anticipated beyond that work covered by the scope of services that is contained in the Scope of Services, attached hereto and incorporated herein as Exhibit 1. In the event HART deletes work from the Scope of Services, a proportional decrease in the fixed fee may be required.

e. Subconsultant Costs. It is agreed that HART has the right to approve any CONSULTANT subcontractors related to the PROJECT. The provisions contained in Exhibit 2B shall apply to Subconsultant costs. Subconsultant costs shall be billed to HART at cost without markup by the CONSULTANT and shall include actual authorized expenses incurred by the CONSULTANT for PROJECT work that is identified in the Contract Cost Estimate, attached hereto as Exhibit 2A. Subcontractors listed in Exhibit 2A, Schedule C are deemed approved.

Honolulu Rail Transit Project

f. The CONSULTANT's personnel contained in Exhibit 2D shall designate by employee the expected overhead rate schedule to be used for billing and any changes will require advance HART approval.

3. **Payment Schedule.** Each month the CONSULTANT shall submit to HART an invoice for payment for PROJECT work completed to the end of the previous month in a form and in reasonable detail as determined by HART. Such invoices shall be for work performed subsequent to that work covered by all previously submitted invoices and shall be completed pursuant to the rates and limitations set forth hereinabove. Invoices shall be supported by adequate documentation as determined by HART and shall detail the work, charge(s) by sub-task, hours, amount and employee name for which payment is being requested, including subconsultant employees, and shall itemize, with receipts and invoices attached, the Other Direct Costs for which reimbursement is being requested. Within thirty (30) days of receipt of an invoice and upon approval of the work satisfactorily completed and amount billed, HART will pay the invoice as approved. At no time shall the total cumulative amount paid for the PROJECT work exceed the Total Price. A copy of invoices submitted by the authorized subconsultants identified in Exhibit 2A, Schedule C for which payment is requested by the CONSULTANT shall be attached to the CONSULTANT's invoice submitted to HART. The CONSULTANT shall notify the HART Project Manager in writing no later than ten (10) days after incurring seventy-five percent (75 %) of the Total Price or whenever the CONSULTANT believes the PROJECT Work cannot be completed for the Total Price.

EXHIBIT 2C
NEGOTIATED OVERHEAD RATE SCHEDULE

<u>Company</u>	<u>Overhead thru 12/31/2014</u>
PGH Wong Engineering, Inc. (Home)	<div>redacted pursuant to HRS 92F</div>
PGH Wong Engineering, Inc. (Field)	
CH2M HILL, Inc. (Home)	
CH2M HILL, Inc. (Field)	
Bowers + Kubota Consulting, Inc. (Both)	
Bow Construction Management Services, Inc. (Both)	
Bright Light Marketing Group (Both)	
Construction Engineering Labs, Inc. (Both)	
Element Environmental, LLC (Both)	
Engineers Surveyors Hawaii, Inc. (Both)	
PSC Consultants, LLC (Both)	
Scientific Consultant Services, Inc. (Both)	

Honolulu Rail Transit Project

EXHIBIT 2D

APPROVED PERSONNEL LIST

1	David Brown	PGH Wong Engineering, Inc.	redacted pursuant to HRS 92F
2	Steve Greenhouse	PGH Wong Engineering, Inc.	
3	John Erdle	PGH Wong Engineering, Inc.	
4	George Wong	PGH Wong Engineering, Inc.	
5	Erik Aguilar	PGH Wong Engineering, Inc.	
6	Willie Chiang	PGH Wong Engineering, Inc.	
7	Steven Kyauk	PGH Wong Engineering, Inc.	
8	Thomas Linde	CH2M HILL, Inc.	
9	Ben Kamph	CH2M HILL, Inc.	
10	Robert Thatcher	CH2M HILL, Inc.	
11	Brook Corney	CH2M HILL, Inc.	
12	Justin Kirschner	Bowers + Kubota Consulting, Inc.	
13	Michael Lum	Bowers + Kubota Consulting, Inc.	
14	Joelle Dubois	Bowers + Kubota Consulting, Inc.	
15	Sonny Leong	Bowers + Kubota Consulting, Inc.	
16	Richard Horita	Bowers + Kubota Consulting, Inc.	
17	Myong Choi	Bowers + Kubota Consulting, Inc.	
18	Benn Torigoe	Bowers + Kubota Consulting, Inc.	
19	Brian Bowers	Bowers + Kubota Consulting, Inc.	
20	Kai Nani Kraut	Bow Construction Management Services, Inc.	
21	Lynette Lo Tom	Bright Light Marketing Group	
22	Ryan Yamauchi	Element Environmental, LLC	
23	Albert Wang	PSC Consultants, LLC	

EXHIBIT 3
CERTIFICATION REGARDING CONFLICT OF INTEREST

“Organizational conflict of interest” means that, because of other activities or relationships with other persons or firms, a potential Contractor (including its principal participants, directors, proposed consultants or subcontractors) would be unable or potentially unable to render impartial, technically sound assistance or advice to the Honolulu Authority for Rapid Transportation (HART); or the potential Contractor’s objectivity in performing the Contract Work would or might be otherwise impaired; or the potential Contractor has an unfair competitive advantage.

On behalf of PGH Wong Engineering, Inc. I certify that:
(Name of Offeror)

(Check one)

☒ The Offeror does not have any relationships with any firms or individuals that are or appear to be an organizational conflict of interest.

☐ The Offeror has had the following relationships with the specific firm(s)/individual(s), identified on the attached sheet, which may be determined to be an organizational conflict of interest. I understand that based on the information I have provided, HART may exclude the Offeror from further consideration and may withdraw its selection if the real or apparent organizational conflict of interest cannot be avoided or mitigated. I further certify that the degree and extent of the relationship of the Offeror with these named firm(s)/individual(s) have been fully disclosed on the attached sheet.


(Signature of Authorized Official)

Clifford S. M. Wong, P.E.
(Print Name)

January 3, 2014
(Date)

Honolulu Rail Transit Project

EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

PGH Wong Engineering, Inc. intends to subcontract Work for the
West Section Construction Engineering and Inspection Consultant Professional Services Contract to

Bowers + Kubota Consulting, Inc.

(Name of Subcontractor/Subconsultant)

to perform the following type of work:


Construction engineering and inspection support services

The minimum value of the Subcontract is \$5000.00.

The Subcontractor/Subconsultant _____ is X is not a certified DBE firm.

If certified, indicate certifying entity: _____. Include a name and telephone
number for certifying entity _____.

For the Consultant:


(Signature)

Clifford Wong, P.E.
(Printed Name)

President
(Title)

1/3/14
(Date)

For the Subcontractor/Subconsultant:


Confirmed by: (Signature)

DEXTER KUBOTA
(Printed Name)

VICE PRESIDENT
(Title)

12/30/13
(Date)

EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

PGH Wong Engineering, Inc. intends to subcontract Work for the
West Section Construction Engineering and Inspection Consultant Professional Services Contract to

CH2M Hill, Inc.

(Name of Subcontractor/Subconsultant)

to perform the following type of work:

Construction engineering and inspection support services

The minimum value of the Subcontract is \$5000.00.

The Subcontractor/Subconsultant _____ is X is not a certified DBE firm.

If certified, indicate certifying entity: _____. Include a name and telephone
number for certifying entity _____.

For the Consultant:


(Signature)

Clifford Wong, P.E.
(Printed Name)

President
(Title)

1/2/14
(Date)

For the Subcontractor/Subconsultant:


Confirmed by: (Signature)

Kathleen Chu
(Printed Name)

Vice President
(Title)

December 30, 2013
(Date)

Honolulu Rail Transit Project

EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

PGH Wong Engineering, Inc. intends to subcontract Work for the
West Section Construction Engineering and Inspection Consultant Professional Services Contract to

Bow Construction Management Service, Inc.

(Name of Subcontractor/Subconsultant)

to perform the following type of work:


Construction Support Services

The minimum value of the Subcontract is \$5000.00.

The Subcontractor/Subconsultant _____ is X is not a certified DBE firm.

If certified, indicate certifying entity: _____. Include a name and telephone
number for certifying entity _____.

For the Consultant:


(Signature)

Clifford Wong, P.E.
(Printed Name)

President
(Title)

1/7/14
(Date)

For the Subcontractor/Subconsultant:


Confirmed by: (Signature)

ALEJANDRO B. PASCUAL
(Printed Name)

VICE PRESIDENT
(Title)

12/31/2013
(Date)

Honolulu Rail Transit Project

EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

PGH Wong Engineering, Inc. intends to subcontract Work for the
West Section Construction Engineering and Inspection Consultant Professional Services Contract to

Bright Light Marketing Group, Inc.

(Name of Subcontractor/Subconsultant)

to perform the following type of work:

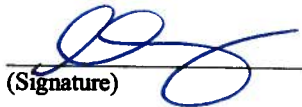
Public outreach support and administrative support

The minimum value of the Subcontract is \$5000.00.

The Subcontractor/Subconsultant X is is not a certified DBE firm.

If certified, indicate certifying entity: Hawaii State Gov.. Include a name and telephone
number for certifying entity Amber Pavao, 808 587-2024

For the Consultant:


(Signature)

Clifford Wong, P.E.
(Printed Name)

President
(Title)

1/7/14
(Date)

For the Subcontractor/Subconsultant:


Confirmed by: (Signature)


Lynette Lo Kanda aka Lynette Lo Tom
(Printed Name)

President
(Title)

1/2/14
(Date)

STATE OF HAWAII
CITY & COUNTY OF HONOLULU } SS
On this 2nd day of January
2014.

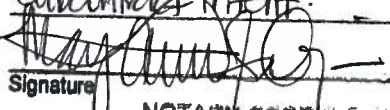
Before me personally appeared Lynette Lo Kanda
to me known to be the person described in and
who executed the foregoing instrument and
acknowledged that she executed the same
as her free act and deed.


Notary Public, First Judicial Circuit
State of Hawaii
May Ann Sambajon

My commission expires: October 7, 2015



Doc Date: 1/2/2014 # Pages: 2
Name: May Ann Sambajon First Circuit
Doc. Description: Deed & Letter of
Subcontract Intent


Signature 1/2/2014
Date

NOTARY CERTIFICATION

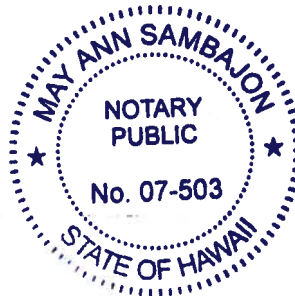


EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

PGH Wong Engineering, Inc. intends to subcontract Work for the
West Section Construction Engineering and Inspection Consultant Professional Services Contract to

Construction Engineering Labs, Inc.

(Name of Subcontractor/Subconsultant)

to perform the following type of work:

Materials testing services

The minimum value of the Subcontract is \$5000.00.

The Subcontractor/Subconsultant _____ is X is not a certified DBE firm.

If certified, indicate certifying entity: _____. Include a name and telephone
number for certifying entity _____.

For the Consultant:

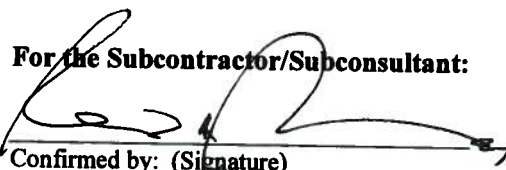

(Signature)

Clifford Wong, P.E.
(Printed Name)

President
(Title)

1/3/14
(Date)

For the Subcontractor/Subconsultant:


Confirmed by: (Signature)

RONALD A. PICKERING II
(Printed Name)

PRESIDENT
(Title)

2 JAN 14
(Date)

EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

PGH Wong Engineering, Inc. intends to subcontract Work for the
West Section Construction Engineering and Inspection Consultant Professional Services Contract to

Element Environmental, LLC

(Name of Subcontractor/Subconsultant)

to perform the following type of work:

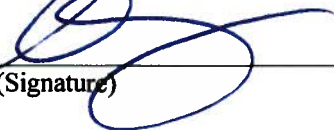
Environmental monitoring and administrative support

The minimum value of the Subcontract is \$5000.00.

The Subcontractor/Subconsultant X is is not a certified DBE firm.

If certified, indicate certifying entity: U.S. Small Business Administration. Include a name and telephone
number for certifying entity Erlyne Lum 808-541-2990.

For the Consultant:


(Signature)

Clifford Wong, P.E.
(Printed Name)

President
(Title)

1/3/14
(Date)

For the Subcontractor/Subconsultant:


Confirmed by: (Signature)

Ryan Yamauchi
(Printed Name)

President
(Title)

12/31/2013
(Date)

Dated: December 31, 2013

State of Hawaii)
City and County of Honolulu) s.s.

On December 31, 2013, before me, Joni D. Young, Notary Public, personally appeared Ryan Yamauchi, President of Element Environmental, LLC, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal,

Signature

Joni D. Young **JONI D. YOUNG**
my commission expires:

07 APR 2014

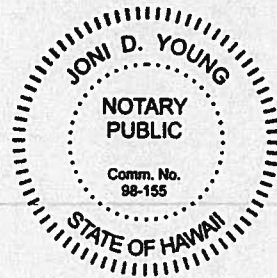


Exhibit 4, Letter of subcontract intent
Doc. Description: (HONOLULU RAIL TRANSIT PROJECT)
Doc. Date: DEC 31 2013 No. Pages: 1
JONI D. YOUNG
Notary Printed Name
Joni D. Young
Jud. Circuit

Honolulu Rail Transit Project

EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

PGH Wong Engineering, Inc. intends to subcontract Work for the
West Section Construction Engineering and Inspection Consultant Professional Services Contract to

Engineers Surveyors Hawaii, Inc.

(Name of Subcontractor/Subconsultant)

to perform the following type of work:

Surveying

The minimum value of the Subcontract is \$5000.00.

The Subcontractor/Subconsultant _____ is X is not a certified DBE firm.

If certified, indicate certifying entity: _____. Include a name and telephone
number for certifying entity _____.

For the Consultant:

[Signature]
(Signature)

Clifford Wong, P.E.
(Printed Name)

President
(Title)

1/3/14
(Date)

For the Subcontractor/Subconsultant:

[Signature]
Confirmed by: (Signature)

KENDALL HEE
(Printed Name)

PRES. & TREAS.
(Title)

12-30-13
(Date)

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 30th day of December 2013 before me personally appeared **KENDALL N.H. HEE** to me personally known, who being by me duly sworn, did say that he is the **President and Treasurer**, of **ENGINEERS SURVEYORS HAWAII, INC.**, and that the seal affixed to the instrument is the corporate seal of the corporation and that the instrument was signed and sealed on behalf of the corporation by authority of its board of directors, and **KENDALL N.H. HEE** acknowledged the instrument to be the free act and deed of the corporation.



Quinn

Lori L. Doi
Notary Public, State of Hawaii
First Judicial Circuit

My Commission Expires: March 27, 2015

Doc. Date: 12/30/13 #of Pages: 2
Notary Name: Lori L. Doi First Circuit
Doc. Description: Honolulu Rail
Project. Exhibit 4, Letter of
Subcontract Intent
Alu Alu
Notary Signature

83-113
12/30/13
DOE
STATE OF HAWAII

Honolulu Rail Transit Project

EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

PGH Wong Engineering, Inc. intends to subcontract Work for the
West Section Construction Engineering and Inspection Consultant Professional Services Contract to

PSC Consultants, LLC

(Name of Subcontractor/Subconsultant)

to perform the following type of work:

Geotechnical engineering, geotechnical investigations, and materials testing services

CONSTRUCTION MONITORING, SPECIAL INSPECTION
AND CONSTRUCTION MANAGEMENT

The minimum value of the Subcontract is \$5000.00.

The Subcontractor/Subconsultant X is is not a certified DBE firm.

If certified, indicate certifying entity: HOOT. Include a name and telephone
number for certifying entity DON FUKU HARA / 808-587-6333

For the Consultant:

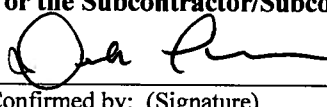

(Signature)

Clifford Wong, P.E.
(Printed Name)

President
(Title)

1/3/14
(Date)

For the Subcontractor/Subconsultant:


Confirmed by: (Signature)

DERRICK S. CHAN
(Printed Name)

PRESIDENT
(Title)

12-31-13
(Date)

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On December 31, 2013 before me Marie Frances Q Quinlan, a notary public in the First Circuit of the State of Hawaii, personally appeared DERRICK S CHAN – President of PSC Consultants, LLC, proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing 1 – page EXHIBIT 4 – LETTER OF SUBCONTRACT INTENT (HONOLULU RAIL TRANSIT PROJECT) as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Marie Francis & Pinder

Print Name: Marie Frances Q Quinlan
Notary Public, State of Hawaii

My commission expires: 02/08/2017

(Stamp or Seal)

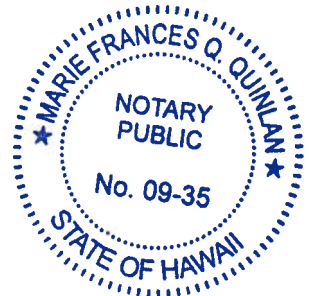


EXHIBIT 4
LETTER OF SUBCONTRACT INTENT

PGH Wong Engineering, Inc. intends to subcontract Work for the
West Section Construction Engineering and Inspection Consultant Professional Services Contract to

Scientific Consultant Services, Inc.

(Name of Subcontractor/Subconsultant)

to perform the following type of work:

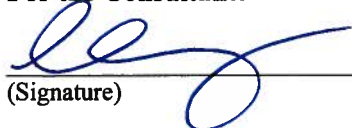
Cultural Resources Support

The minimum value of the Subcontract is \$100.00.

The Subcontractor/Subconsultant _____ is X is not a certified DBE firm.

If certified, indicate certifying entity: _____. Include a name and telephone
number for certifying entity _____.

For the Consultant:


(Signature)

Clifford Wong, P.E.
(Printed Name)

President
(Title)

1/7/14
(Date)

For the Subcontractor/Subconsultant:


Confirmed by: (Signature)

Roger L Soene
(Printed Name)

PRESIDENT
(Title)

1/3/2014
(Date)

EXHIBIT 5
CERTIFICATE REGARDING INELIGIBLE CONTRACTORS

**CERTIFICATION REGARDING DEBARMENT, SUSPENSION AND OTHER
INELIGIBILITY AND VOLUNTARY EXCLUSION FROM TRANSACTIONS
FINANCED IN PART BY THE U.S. GOVERNMENT**

I, Clifford S. M. Wong, P.E., President, hereby
(Name of Certifying Officer) (Title of Certifying Officer)

certify that PGH Wong Engineering, Inc. :
(Name of Contractor)

1. Is not presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation by any Federal department or agency or from participation in the Honolulu Rail Transit Project.
2. Has not within a three-year period preceding this proposal been convicted of or had a civil judgment rendered against it for commission of fraud or a criminal offense in connection with obtaining, attempting to obtain, or performing a public (Federal, State or local) transaction or contract under a public transaction, for violation of Federal or State antitrust statutes, or for commission of embezzlement, theft, forgery, bribery, falsification or destruction of records, making false statements, or receiving stolen property;
3. Is not presently indicted for or otherwise criminally or civilly charged by a governmental entity (Federal, State or local) with commission of any of the offenses enumerated in Paragraph 2 of this certification; and
4. Has not within a three-year period preceding this proposal had one or more public transactions (Federal, State or local) terminated for cause or default.

If any Principal Participant is unable to certify to any of the statements in this certification, such prospective Principal Participant shall attach an explanation to this certification.

I hereby certify and affirm the truthfulness and accuracy of the above statement, and I understand that the provisions of 31 United States Code (U.S.C.) §3801 et seq., (Administrative Remedies for False Claims and Statements) are applicable hereto.


Signature of Certifying Officer

PGH Wong Engineering, Inc.
Name of Contractor
182 - 2nd Street, Suite 500
Street Address of Contractor
San Francisco, CA 94105-3801
City, State, Zip
(415) 566-0800
Telephone Number of Contractor

(Note: The above certification merely certifies that an Offeror and its subcontractors are not declared by the Federal Government or have not voluntarily declared themselves debarred, suspended, or declared ineligible from doing transactions with the Federal Government or any of its agencies.)

EXHIBIT 6
**CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS/
SUBCONSULTANTS**

**Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion
Lower-Tier Covered Transactions**

- 1) The prospective lower tier participant (Subcontractor/Subconsultant) certifies, that neither it nor its principals is presently debarred, suspended, proposed for debarment, declared ineligible, or voluntarily excluded from participation in PGH Wong Engineering, Inc.'s West Section Construction Engineering and Inspection (CE&I) Consultant Services Contract by any federal department or agency.
- 2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)

Signed



Typed or Printed Name

DEXTER KUBOTA

Company Name

BOWERS + KUBOTA CONSULTING, INC

Date

12/30/13

EXHIBIT 6
**CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS/
SUBCONSULTANTS**

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- 2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)



Signed

Kathleen Chu

Typed or Printed Name

CH2M HILL, Inc.

Company Name

December 30, 2013

Date

EXHIBIT 6
**CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS/
SUBCONSULTANTS**

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- 2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)


Signed

ALEJANDRO B. PASCUAL

Typed or Printed Name

BOW CONSTRUCTION MANAGEMENT SERVICE, INC.

Company Name

12/31/2013
Date

EXHIBIT 6
**CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS/
SUBCONSULTANTS**

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- 2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)



Signed

Lynette Lo Kanda aka Lynette LoTom

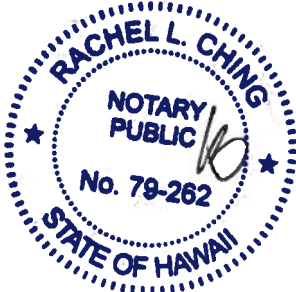
Typed or Printed Name

Bright Light Marketing Group, Inc.

Company Name

12/31/13

Date



HAWAII ALL-PURPOSE ACKNOWLEDGMENT H.R.S 502-41

State of Hawaii

County of Honolulu } ss.
First Judicial Circuit

On this 31st day of December, 2013
Date Month Year

Document Description: Exhibit 6 - Certificate
Reg. Inelig. Sub-Contractors / Sub Consultants
before me personally appeared Lynette Lo Kanda aka Lynette Lo Tom
(1) Bright Light Marketing Group Inc.
Name of Signer

Document Date: 12/31/13 No. Pages: 5

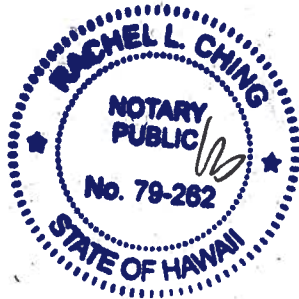
and

(2) _____
Name of Signer

to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Rachel L. Ching 12/31/13
Notary's Signature Date
RACHEL L. CHING
Notary's Printed Name

My commission expires: 7/23/2016



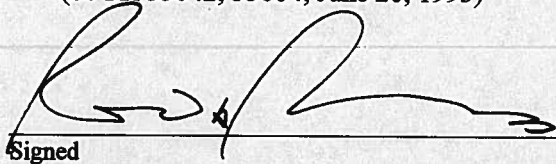
Place Notary Seal or Stamp Above

EXHIBIT 6
**CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS/
SUBCONSULTANTS**

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- 2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)


Signed

RONALD A. PICKERING II

Typed or Printed Name

CONSTRUCTION ENGINEERING LABS, INC.

Company Name

2 JAN 14

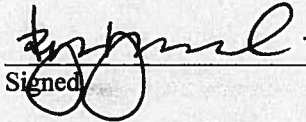
Date

EXHIBIT 6
**CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS/
SUBCONSULTANTS**

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- 2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)


Signed

Ryan Yamauchi
Typed or Printed Name

Element Environmental, LLC
Company Name

12/31/2013
Date

Dated: December 31, 2013

State of Hawaii)
City and County of Honolulu) s.s.

On December 31, 2013, before me, Joni D. Young, Notary Public, personally appeared Ryan Yamauchi, President of Element Environmental, LLC, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal,

Signature

Joni D. Young

JONI D. YOUNG
my commission expires:
07 APR 2014

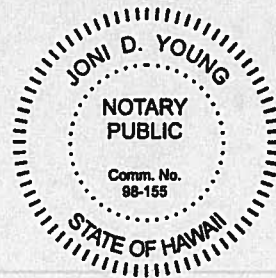


Exhibit 6 Certificate Regarding Ineligible
Subcontractors / Subconsultants
Doc. Description: (HONOLULU RAIL TRANSIT PROJECT)

Doc. Date: DEC 31 2013 No. Pages: 1
JONI D. YOUNG
Notary Printed Name
Joni D. Young
Jud. Circuit

EXHIBIT 6
**CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS/
SUBCONSULTANTS**

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- 2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)



Signed _____

KENDALL HEE
Typed or Printed Name

ENGINEERS SURVEYORS HAWAII, INC.
Company Name

12-20-13
Date

STATE OF HAWAII)
) SS.
CITY & COUNTY OF HONOLULU)

On this 30th day of December 2013 before me personally appeared **KENDALL N.H. HEE** to me personally known, who being by me duly sworn, did say that he is the **President and Treasurer**, of **ENGINEERS SURVEYORS HAWAII, INC.**, and that the seal affixed to the instrument is the corporate seal of the corporation and that the instrument was signed and sealed on behalf of the corporation by authority of its board of directors, and **KENDALL N.H. HEE** acknowledged the instrument to be the free act and deed of the corporation.



Penetration

Lori L. Doi
Notary Public, State of Hawaii
First Judicial Circuit

My Commission Expires: March 27, 2015

Doc. Date: 12/30/13 #of Pages: 2
 Notary Name: Lori L. Doi First Circuit
 Doc. Description: Honolulu Rail
Project. Exhibit 6, Certificate Regarding
Ineligible Subcontractors/Subconsultants
 (seal)
 83-113
 PUBLIC
 STATE OF HAWAII
 12/30/13
 Notary Signature _____ Date _____

EXHIBIT 6
**CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS/
SUBCONSULTANTS**

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- 2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)



Signed

DERICK S CHAN

Typed or Printed Name

PSC CONSULTANTS, LLC

Company Name

12-31-13

Date

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On December 31, 2013 before me Marie Frances Q Quinlan, a notary public in the First Circuit of the State of Hawaii, personally appeared DERRICK S CHAN - President of PSC Consultants, LLC, proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing 1 - page EXHIBIT 6 - CERTIFICATE REGARDING INELIGIBLE SUBCONTRACTORS/ SUBCONSULTANTS (HONOLULU RAIL TRANSIT PROJECT) as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Marie Frances & Paul

Print Name: Marie Frances Q Quinlan
Notary Public, State of Hawaii

My commission expires: 02/08/2017

(Stamp or Seal)

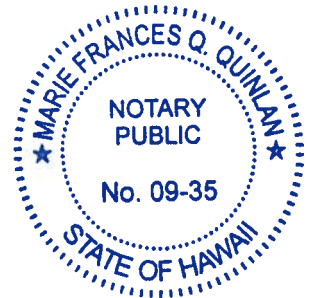



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- 2) Where the prospective lower-tier participant is unable to certify to any of the statements in this certification, such prospective participant shall attach an explanation.

(60 FR 33042, 33064, June 26, 1995)

Signed



Typed or Printed Name

ROBERT L. SPEM

Company Name

SCIENTIFIC CONSULTANT SERVICES INC.

Date

1/3/2014

EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned,** to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) **If any funds other than Federal appropriated funds have been paid or will be paid** to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

PGH Wong Engineering, Inc.

The CONSULTANT, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: PGH Wong Engineering, Inc.

Signature: 

Print Name: Clifford S. M. Wong, P.E.

Title: President

Date: January 3, 2014

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned,** to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) **If any funds other than Federal appropriated funds have been paid or will be paid** to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].
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[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The CONSULTANT, BOWERS + KUBOTA CONSULTING, INC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: BOWERS + KUBOTA CONSULTING, INC
Signature: [Signature]
Print Name: DEXTER KUBOTA
Title: VICE PRESIDENT
Date: 12/30/13

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned,** to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) **If any funds other than Federal appropriated funds have been paid or will be paid** to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].
- (3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The CONSULTANT, **CH2M HILL, Inc.**, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: CH2M HILL, Inc.

Signature: 

Print Name: Kathleen Chu

Title: Vice President

Date: December 30, 2013

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned,** to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) **If any funds other than Federal appropriated funds have been paid or will be paid** to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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The CONSULTANT, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: BOW CONSTRUCTION MANAGEMENT SERVICE, INC.

Signature: 

Print Name: ALEJANDRO B. PASCUAL

Title: VICE PRESIDENT

Date: 12/31/2013

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned,** to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

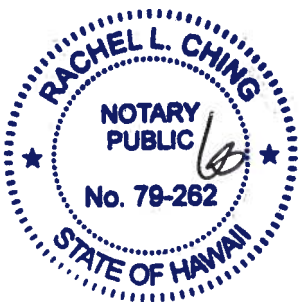
(2) **If any funds other than Federal appropriated funds have been paid or will be paid** to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by section 1352, title 31, U.S. Code (as amended by the Lobbying Disclosure Act of 1995). Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The CONSULTANT, Bright Light Marketing Group, Inc., certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.



Company Name: Bright Light Marketing Group, Inc.
Signature: Lynette Lo Kanda aka
Print Name: Lynette Lo Kanda aka Lynette Lo Tom
Title: President
Date: 12/31/13

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

HAWAII ALL-PURPOSE ACKNOWLEDGMENT H.R.S. 802-41

State of Hawaii

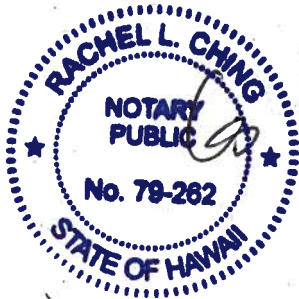
County of Honolulu } ss.

First Judicial Circuit

Document Description:

Exhibit #7 -
Certification Regarding Lobbying

Document Date: 12/31/13 No. Pages: 5



Place Notary Seal or Stamp Above

On this 31st day of December, 2013
Date Month Year

before me personally appeared

Lynette Lo Kanda aka Lynette Lo Tom
(1) Bright Light Marketing Group, Inc.
Name of Signer

and

(2) _____
Name of Signer

to me personally known, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing instrument as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Rachel L. Ching 12/31/2013
Notary's Signature Date
RACHEL L. CHING
Notary's Printed Name

My commission expires: 7/23/2016

EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

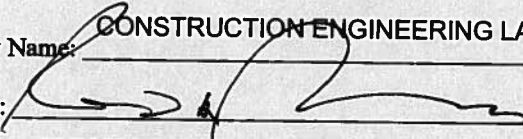
The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned,** to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
- (2) **If any funds other than Federal appropriated funds have been paid or will be paid** to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].
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[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The CONSULTANT, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: CONSTRUCTION ENGINEERING LABS, INC.
Signature: 
Print Name: RONALD A. PICKERING II
Title: PRESIDENT
Date: 2 JAN 14

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

(1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned,** to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.

(2) **If any funds other than Federal appropriated funds have been paid or will be paid** to any person for making lobbying contacts to an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions [as amended by "Government-wide Guidance for New Restrictions on Lobbying," 61 Federal Regulations 1413 (1/19/96). Note: Language in paragraph (2) herein has been modified in accordance with Section 10 of the Lobbying Disclosure Act of 1995 (P.L. 104-65, to be codified at 2 U.S.C. 1601, et seq.)].

(3) The undersigned shall require that the language of this certification be included in the award documents for all subawards at all tiers (including subcontracts, subgrants, and contracts under grants, loans, and cooperative agreements) and that all subrecipients shall certify and disclose accordingly.

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[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

Element Environmental, LLC

The CONSULTANT, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: Element Environmental, LLC

Signature: 

Print Name: Ryan Yamauchi

Title: President

Date: 12/31/2013

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

Dated: December 31, 2013

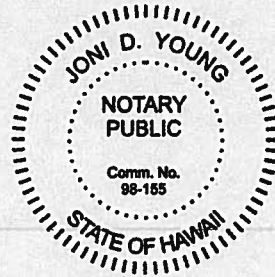
State of Hawaii)
City and County of Honolulu) s.s.

On December 31, 2013, before me, Joni D. Young, Notary Public, personally appeared Ryan Yamauchi, President of Element Environmental, LLC, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person or the entity upon behalf of which the person acted, executed the instrument.

Witness my hand and official seal,

Signature

Joni D. Young
my commission expires:
JONI D. YOUNG
07 APR 2014



(HONOLULU RAIL TRANSIT PROJECT)
Exhibit 7

Doc. Description: Certification regarding lobbying

Doc. Date: DEC 31 2013 No. Pages: 1

JONI D. YOUNG
Notary Printed Name

Joni D. Young
Jud. Circuit

EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

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[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The CONSULTANT, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: ENGINEERS SURVEYORS HAWAII, INC.

Signature: Kendall Hee

Print Name: KENDALL HEE

Title: Pres. & Treas.

Date: 12-30-13

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

STATE OF HAWAII

)

) SS.

CITY & COUNTY OF HONOLULU

)

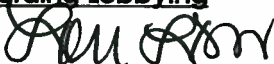
On this 30th day of December 2013 before me personally appeared **KENDALL N.H. HEE** to me personally known, who being by me duly sworn, did say that he is the **President and Treasurer**, of **ENGINEERS SURVEYORS HAWAII, INC.**, and that the seal affixed to the instrument is the corporate seal of the corporation and that the instrument was signed and sealed on behalf of the corporation by authority of its board of directors, and **KENDALL N.H. HEE** acknowledged the instrument to be the free act and deed of the corporation.



Answer

Lori L. Doi
Notary Public, State of Hawaii
First Judicial Circuit

My Commission Expires: March 27, 2015

Doc. Date: 12/30/13 #of Pages: 2
Notary Name: Lori L. Doi First Circuit
Doc. Description: Honolulu Rail
Project. Exhibit 7, Certification
Regarding Lobbying



Notary Signature Date: 12/30/13


EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned,** to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
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[Note: Pursuant to 31 U.S.C. §1352(c)(1)-(2)(A), any person who makes a prohibited expenditure or fails to file or amend a required certification or disclosure form shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each expenditure or failure.]

The CONSULTANT, PSC, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: PSC CONSULTANTS, LLC
Signature: [Signature]
Print Name: DERECK S CHAN
Title: PRESIDENT
Date: 12-31-13

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

STATE OF HAWAII)
) SS.
CITY AND COUNTY OF HONOLULU)

On December 31, 2013 before me Marie Frances Q Quinlan, a notary public in the First Circuit of the State of Hawaii, personally appeared DERRICK S CHAN – President of PSC Consultants, LLC, proved to me on the basis of satisfactory evidence, who, being by me duly sworn or affirmed, did say that such person(s) executed the foregoing 1 – page EXHIBIT 7 – CERTIFICATE REGARDING LOBBYING (HONOLULU RAIL TRANSIT PROJECT) as the free act and deed of such person(s), and if applicable in the capacity shown, having been duly authorized to execute such instrument in such capacity.

Marie Frances P. Quinn

Print Name: Marie Frances Q Quinlan
Notary Public, State of Hawaii

My commission expires: 02/08/2017

(Stamp or Seal)

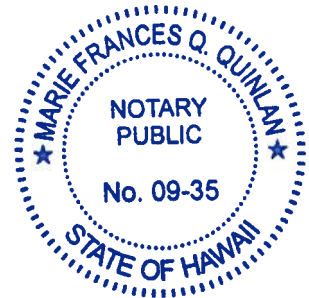


EXHIBIT 7

CERTIFICATION REGARDING LOBBYING

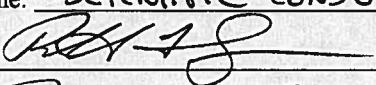
The undersigned certifies, to the best of his or her knowledge and belief, that:

- (1) **No Federal appropriated funds have been paid or will be paid, by or on behalf of the undersigned,** to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan or cooperative agreement.
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The CONSULTANT, _____, certifies or affirms the truthfulness and accuracy of each statement of its certification and disclosure, if any. In addition, the CONSULTANT understands and agrees that the provisions of 31 U.S.C. §3801, et seq., apply to this certification and disclosure, if any.

Company Name: SCIENTIFIC CONSULTANT SERVICES, INC.
Signature: 
Print Name: ROBERT L. SPEAR
Title: PRESIDENT
Date: 01/03/2014

NOTE: THE CONSULTANT IS REQUIRED PURSUANT TO FEDERAL LAW, TO INCLUDE THE ABOVE LANGUAGE IN SUBCONTRACTS OVER \$100,000 AND TO OBTAIN THIS LOBBYING CERTIFICATE FROM EACH SUBCONTRACTOR BEING PAID \$100,000 OR MORE UNDER THIS CONTRACT.

EXHIBIT 8

HONOLULU RAIL TRANSIT PROJECT

WEST SECTION CONSTRUCTION ENGINEERING AND INSPECTION PROFESSIONAL SERVICES CONTRACT

FEDERAL REQUIREMENTS

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FEDERAL REQUIREMENTS

1.0 GENERAL

The CONTRACTOR understands that Federal laws, regulations, policies, and related administrative practices applicable to this Agreement on the date signed may be modified from time to time. The CONTRACTOR agrees that the most recent of such Federal requirements will govern the administration of the Agreement at any particular point in time, except if HART issues a written determination otherwise. To achieve compliance with changing Federal requirements, the CONTRACTOR agrees to include notice in each subcontract that Federal requirements may change and that the changed requirements will apply to the subcontract as required.

1.1 No Government Obligation to Third Parties

(a) HART and the CONTRACTOR acknowledge and agree that, notwithstanding any concurrence by the Federal Government in or approval of the solicitation or award of the underlying Agreement, absent the express written consent by the Federal Government, the Federal Government is not a party to this Agreement and shall not be subject to any obligations or liabilities to HART, the CONTRACTOR, or any other party (whether or not a party to that Agreement) pertaining to any matter resulting from the underlying Agreement.

(b) The CONTRACTOR agrees to include the above clause in each subcontract. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to its provisions.

1.2 Program Fraud and False or Fraudulent Statements and Related Acts

(a) The CONTRACTOR acknowledges that the provisions of the Program Fraud Civil Remedies Act of 1986, as amended, 31 U.S.C. §§ 3801 *et seq.* and U.S. DOT regulations, "Program Fraud Civil Remedies," 49 C.F.R. Part 31, apply to its actions pertaining to this Project. Upon execution of the underlying Agreement, the CONTRACTOR certifies or affirms the truthfulness and accuracy of any statement it has made, it makes, it may make, or causes to be made, pertaining to the underlying Agreement or the FTA assisted project for which this Agreement work is being performed. In addition to other penalties that may be applicable, the CONTRACTOR further acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification, the Federal Government reserves the right to impose the penalties of the Program Fraud Civil Remedies Act of 1986 on the CONTRACTOR to the extent the Federal Government deems appropriate.

(b) The CONTRACTOR also acknowledges that if it makes, or causes to be made, a false, fictitious, or fraudulent claim, statement, submission, or certification to the Federal Government under an Agreement connected with a project that is financed in whole or in part with Federal assistance originally awarded by FTA under the authority of 49 U.S.C. Chapter 53, the Federal Government reserves the right to impose the penalties of 18 U.S.C. § 1001 and 49 U.S.C. § 5323(l) on the CONTRACTOR, to the extent the Federal Government deems appropriate.

(c) The CONTRACTOR shall include the above two clauses in each subcontract. It is further agreed that the clauses shall not be modified, except to identify the subcontractor who will be subject to the provisions.

1.3 Access to Records and Reports

(a) The CONTRACTOR shall provide HART, the FTA Administrator, the Comptroller General of the United States or any of their authorized representatives access to any books, documents, papers and

records of the CONTRACTOR which are directly pertinent to this Agreement for the purposes of making audits, examinations, excerpts and transcriptions. The CONTRACTOR shall, pursuant to 49 C.F.R. § 633.17, provide the FTA Administrator or his authorized representatives, including any Project Management Oversight Contractor, access to the CONTRACTOR's records and construction sites pertaining to a major capital project, defined at 49 U.S.C. § 5302(a)(1), which is receiving federal financial assistance through the programs described at 49 U.S.C. §§ 5307, 5309 or 5311.

(b) The CONTRACTOR shall permit any of the foregoing parties to reproduce by any means whatsoever or to copy excerpts and transcriptions as reasonably needed.

(c) The CONTRACTOR shall maintain all books, records, accounts and reports required under this Agreement for a period of not less than three (3) years after the date of termination or expiration of this Agreement, except in the event of litigation or settlement of claims arising from the performance of this Agreement, in which case the CONTRACTOR shall maintain the same until HART, the FTA Administrator, the Comptroller General of the United States, or any of their duly authorized representatives, have disposed of all such litigation, appeals, claims or exceptions related thereto.

1.4 Federal Changes

The CONTRACTOR shall at all times comply with all applicable FTA regulations, policies, procedures and directives, including without limitation those listed directly or by reference in the Master Agreement between the City and the FTA, as they may be amended or promulgated from time to time during the term of this Agreement. The CONTRACTOR's failure to so comply shall constitute a material breach of this Agreement.

1.5 Civil Rights Requirements

The CONTRACTOR shall comply with the following requirements and include the following requirements in each subcontract, modified only if necessary to identify the affected parties:

(a) **Nondiscrimination.** In accordance with Title VI of the Civil Rights Act, as amended, 42 U.S.C. § 2000d, section 303 of the Age Discrimination Act of 1975, as amended, 42 U.S.C. § 6102, section 202 of the Americans with Disabilities Act of 1990, 42 U.S.C. § 12132, and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR shall not discriminate against any employee or applicant for employment because of race, color, creed, national origin, sex, age, or disability. In addition, the CONTRACTOR shall comply with applicable Federal implementing regulations and other implementing requirements FTA may issue.

(b) **Equal Employment Opportunity.** The following equal employment opportunity requirements apply to the underlying Agreement:

(1) **Race, Color, Creed, National Origin, Sex.** In accordance with Title VII of the Civil Rights Act, as amended, 42 U.S.C. § 2000e, and Federal transit laws at 49 U.S.C. § 5332, the CONTRACTOR shall comply with all applicable equal employment opportunity requirements of U.S. Department of Labor (U.S. DOL) regulations, "Office of Federal Agreement Compliance Programs, Equal Employment Opportunity, Department of Labor," 41 C.F.R. Parts 60 et seq., (which implement Executive Order No. 11246, "Equal Employment Opportunity," as amended by Executive Order No. 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," 42 U.S.C. § 2000e), and with any applicable Federal statutes, executive orders, regulations, and Federal policies that may in the future affect construction activities undertaken in the course of the Project. The CONTRACTOR shall take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, creed, national origin, sex, or age. Such action shall include, but not be limited to, the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising, layoff or termination; rates of pay or other

forms of compensation; and selection for training, including apprenticeship. In addition, the CONTRACTOR shall comply with any implementing requirements FTA may issue.

(2) Age. In accordance with section 4 of the Age Discrimination in Employment Act of 1967, as amended, 29 U.S.C. § 623 and Federal transit law at 49 U.S.C. § 5332, the CONTRACTOR shall refrain from discrimination against present and prospective employees for reason of age. In addition, the CONTRACTOR shall comply with any implementing requirements FTA may issue.

(3) Disabilities. In accordance with section 102 of the Americans with Disabilities Act, as amended, 42 U.S.C. § 12112, the CONTRACTOR shall comply with the requirements of the U.S. Equal Employment Opportunity Commission, "Regulations to Implement the Equal Employment Provisions of the Americans with Disabilities Act," 29 C.F.R. Part 1630, pertaining to employment of persons with disabilities. In addition, the CONTRACTOR shall comply with any implementing requirements FTA may issue.

(4) Access for Individuals with Disabilities. The CONTRACTOR shall comply with 49 U.S.C. § 5301(d), which states the Federal policy that elderly individuals and individuals with disabilities have the same right as other individuals to use public transportation services and facilities, and that special efforts shall be made in planning and designing those services and facilities to implement transportation accessibility rights for elderly individuals and individuals with disabilities.

1.6 Disadvantaged Business Enterprises (DBE)

(a) DBE Assurances. The CONTRACTOR and its subcontractors shall not discriminate on the basis of race, color, national origin, or sex in the performance of this Agreement. The CONTRACTOR shall carry out applicable requirements of 49 C.F.R. Part 26 in the award and administration of U.S. DOT-assisted Agreements. Failure by the CONTRACTOR to carry out these requirements is a material breach of this Agreement, which may result in termination of this Agreement or such other remedy, as HART deems appropriate.

The above paragraph shall be included in each subcontract the CONTRACTOR signs with a subcontractor.

(b) Prompt Payment. The CONTRACTOR shall pay all subcontractors (DBEs and non-DBEs) for satisfactory performance of their subcontracts no later than ten (10) days from receipt of payment by HART. Full and prompt payment by the CONTRACTOR to all subcontractors shall include retainage, if applicable.

(c) DBE Goal. HART has established an overall DBE goal of 13.00% for the duration of this agreement and a separate contract goal has not been established for this procurement. DBE firms and small businesses shall have an equal opportunity to participate in the agreement. The CONTRACTOR shall adhere to the following requirements:

(1) Take affirmative steps to use as many of the race-neutral means of achieving DBE participation identified at 49 C.F.R. § 26.51(b) as practicable to afford opportunities to DBEs to participate in the Agreement. A race-neutral measure is one that is, or can be, used to assist all small businesses.

(2) A DBE firm must perform a commercially useful function, i.e., must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work; and

(3) A DBE firm must be certified by the Hawai'i State Department of Transportation before its participation is reportable under paragraph (d) below;

(d) Reports to HART. The CONTRACTOR shall report its DBE participation obtained through race-neutral means throughout the period of performance. The CONTRACTOR shall submit the "DBE PARTICIPATION REPORT" reflecting payments made by the CONTRACTOR to DBE subcontractors. Payments to the CONTRACTOR will not be processed if the DBE PARTICIPATION REPORT is not properly completed and attached. The DBE PARTICIPATION REPORT shall be prepared in the format set forth in ATTACHMENT 1.6 a) to this Exhibit.

(e) Records. On request, the CONTRACTOR shall make available for inspection, and assure that its subcontractors make available for inspection:

- (1) Records of prompt payments made in accordance with Section 1.6(b), above;
- (2) The names and addresses of DBE subcontractors, vendors, and suppliers under this Agreement;
- (3) The dollar amount and nature of work of each DBE subcontractor;
- (4) The social/economic disadvantaged category of the DBE firms, i.e. Black American, Hispanic American, Native American, Subcontinent Asian American, Asian Pacific American, Non-Minority Women, or Other; and
- (5) Other related materials and information.

(f) The CONTRACTOR shall promptly notify HART, whenever a DBE subcontractor performing work related to this Agreement is terminated or fails to complete its work. The CONTRACTOR shall also promptly notify HART of a DBE subcontractor's inability or unwillingness to perform and provide reasonable documentation.

1.7 Government-Wide Debarment and Suspension (Non-procurement)

(a) This Agreement is a covered transaction for purposes of 2 C.F.R. § 180.220(b) and 2 C.F.R. § 1200.220. As such, the CONTRACTOR is required to verify that none of the CONTRACTOR, its principals, as defined at 2 C.F.R. § 180.995, or affiliates, as defined at 2 C.F.R. § 180.905, are excluded or disqualified as defined at 2 C.F.R. § 180.940 and 2 C.F.R. § 180.935.

(b) The CONTRACTOR is required to comply with 2 C.F.R. § 180, Subpart C, as supplemented by 2 C.F.R. § 1200, Subpart C, and must include the requirement to comply with 2 C.F.R. § 180, Subpart C, as supplemented by 2 C.F.R. § 1200, Subpart C, in any lower tier covered transaction equal to or exceeding \$25,000 it enters into. By signing the Agreement, the CONTRACTOR certifies as follows:

The certification in this clause is a material representation of fact relied upon by HART. If it is later determined that the CONTRACTOR knowingly rendered an erroneous certification, in addition to remedies available to HART, the Federal Government may pursue available remedies, including but not limited to suspension and/or debarment. The CONTRACTOR agrees to comply with the requirements of 2 C.F.R. § 180, Subpart C, as supplemented by 2 C.F.R. § 1200, Subpart C, throughout the Agreement period. The CONTRACTOR further agrees to include a provision requiring such compliance in its lower tier covered transactions equal to or exceeding \$25,000.

1.8 Lobbying

The "CERTIFICATION REGARDING LOBBYING," as executed by the CONTRACTOR in Exhibit 7 of the Special Provisions is incorporated herein by reference. The CONTRACTOR and its subcontractors at every tier shall comply with U.S. DOT regulations, "New Restrictions on Lobbying," 49 C.F.R. Part 20, modified as necessary by 31 U.S.C. § 1352, which requires that no Federal appropriated funds shall be used to pay any person or organization for influencing or attempting to influence an officer or employee of any agency, a member of Congress, an officer or employee of Congress, or an employee of a member of Congress in connection with obtaining any Federal Agreement, grant, or any other award covered by 31 U.S.C. § 1352. Each tier shall also disclose the name of any registrant under the Lobbying Disclosure Act of 1995 who has made lobbying contacts on its behalf with non-Federal funds with respect to that Federal Agreement, grant, or award covered by 31 U.S.C. § 1352. Such disclosures are forwarded from tier to tier up to HART.

1.9 Clean Air Requirements

(a) The CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Clean Air Act, as amended, 42 U.S.C. §§ 7401 et seq. The CONTRACTOR shall report each violation to HART and understands and agrees that HART will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

(b) The CONTRACTOR shall include the above clause in each subcontract exceeding \$100,000.

1.10 Clean Water Requirements

(a) The CONTRACTOR shall comply with all applicable standards, orders or regulations issued pursuant to the Federal Water Pollution Control Act, as amended, 33 U.S.C. §§ 1251 et seq. The CONTRACTOR shall report each violation to HART and understands and agrees that HART will, in turn, report each violation as required to FTA and the appropriate EPA Regional Office.

(b) The CONTRACTOR shall include the above clause in each subcontract exceeding \$100,000.

1.11 Fly America Requirements

(a) The CONTRACTOR shall comply with 49 U.S.C. § 40118 (the "Fly America Act") in accordance with the General Services Administration's regulations at 41 C.F.R. Parts 301-10, which provide that HART and sub-recipients of Federal funds and their consultants are required to use U.S. Flag air carriers for U.S. Government-financed international air travel and transportation of their personal effects or property, to the extent such service is available, unless travel by foreign air carrier is a matter of necessity, as defined by the Fly America Act. The CONTRACTOR shall submit, if a foreign air carrier was used, an appropriate certification or memorandum adequately explaining why service by a U.S. flag air carrier was not available or why it was necessary to use a foreign air carrier and shall, in any event, provide a certificate of compliance with the Fly America requirements.

(b) The CONTRACTOR shall include the requirements of this section in all subcontracts that may involve international air transportation.

1.12 Energy Conservation Requirements

(a) The CONTRACTOR shall comply with mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act.

(b) The CONTRACTOR shall include the above clause in each subcontract at every tier. It is further agreed that the clause shall not be modified, except to identify the subcontractor who will be subject to the provisions.

1.13 Recycled Products

The CONTRACTOR agrees to comply with all the requirements of Section 6002 of the Resource Conservation and Recovery Act as amended (42 U.S.C. § 6962), including but not limited to the regulatory provisions of 40 C.F.R. Part 247, and Executive Order 12873, as they apply to the procurement of the items designated in Subpart B of 40 C.F.R. Part 247.

1.14 ADA Access

The CONTRACTOR shall comply with the Americans with Disabilities Act of 1990 (ADA), as amended, 42 U.S.C. §§ 12101 et seq., which requires that accessible facilities and services be made available to individuals with disabilities; and with the Architectural Barriers Act of 1968, as amended, 42 U.S.C. §§ 4151 et seq., which requires that buildings and public accommodations be accessible to individuals with disabilities, and any subsequent amendments to these laws. In addition, the CONTRACTOR agrees to comply with all applicable implementing Federal regulations and directives and any subsequent amendments thereto.

1.15 Seismic Safety

The CONTRACTOR shall ensure that any new building or addition to an existing building will be designed and constructed in accordance with the standards for Seismic Safety required in the U.S. Department of Transportation's Seismic Safety Regulations (49 C.F.R. Part 41) and shall certify to compliance to the extent required by the regulation. The CONTRACTOR also agrees to ensure that all work performed under this Agreement including work performed by a subcontractor is in compliance with the standards required by the Seismic Safety Regulations and the certification of compliance issued on the Project.

1.16 Text Messaging While Driving

In accordance with Executive Order No. 13513, Federal Leadership on Reducing Text Messaging While Driving, October 1, 2009, 23 U.S.C.A. § 402 note, and U.S. DOT Order 3902.10, Text Messaging While Driving, December 30, 2009, the CONTRACTOR is encouraged to comply with the terms of the following:

(a) **Definitions.**

(1) "Driving" means operating a motor vehicle on a roadway, including while temporarily stationary because of traffic, a traffic light, stop sign, or otherwise. "Driving" does not include being in your vehicle (with or without the motor running) in a location off the roadway where it is safe and legal to remain stationary.

(2) "Text Messaging" means reading from or entering data into any handheld or other electronic device, including for the purpose of short message service texting, e-mailing, instant messaging, obtaining navigational information, or engaging in any other form of electronic data retrieval or electronic data communication. The term does not include the use of a cell phone or other electronic device for the limited purpose of entering a telephone number to make an outgoing call or answer an incoming call, unless the practice is prohibited by State or local law.

(b) **Safety.** The CONTRACTOR is encouraged to:

(1) Adopt and enforce workplace safety policies to decrease crashes caused by distracted drivers including policies to ban text messaging while driving:

(i) CONTRACTOR-owned or CONTRACTOR-rented vehicles or Government-owned, leased or rented vehicles;

(ii) Privately-owned vehicles when on official Project related business or when performing any work for or on behalf of the Project; or

(iii) Any vehicle, on or off duty, and using an employer supplied electronic device.

(2) Conduct workplace safety initiatives in a manner commensurate with the CONTRACTOR's size, such as:

(i) Establishment of new rules and programs or re-evaluation of existing programs to prohibit text messaging while driving; and

(ii) Education, awareness, and other outreach to employees about the safety risks associated with text messaging while driving.

(3) Include this Special Provision in its subagreements with its subrecipients and third party contracts and also encourage its subrecipients, lessees, and third party contractors to comply with the terms of this Special Provision and include this clause in each subagreement, lease, and subcontract at each tier financed with Federal assistance provided by the Federal Government.

1.17 Sensitive Security Information

The CONTRACTOR, as a third party contractor must protect, and take measures to ensure that its subcontractors at each tier protect, "sensitive security information" made available during the administration of a third party contract or subcontract to ensure compliance with 49 U.S.C. § 40119(b) and implementing U.S. DOT regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 15, and with 49 U.S.C. § 114(r) and implementing Department of Homeland Security regulations, "Protection of Sensitive Security Information," 49 C.F.R. Part 1520.

1.18 Incorporation of FTA Terms

(a) The Special Provisions include, in part, certain Standard Terms and Conditions required by the U.S. DOT, whether or not expressly set forth in the preceding provisions. All contractual provisions required by the U.S. DOT, as set forth in FTA Circular 4220.1F are hereby incorporated by reference. Anything to the contrary herein notwithstanding, all FTA mandated terms shall be deemed to control in the event of a conflict with other provisions contained in this Agreement. The CONTRACTOR shall not perform any act, fail to perform any act, or refuse to comply with any HART requests which would cause HART to be in violation of the FTA terms and conditions.

(b) The CONTRACTOR shall include the above clause in each subcontract financed in whole or in part with Federal assistance provided by FTA, modified only if necessary to identify the affected parties.

ATTACHMENT 1.6 a) – DBE PARTICIPATION REPORT

DBE PARTICIPATION REPORT					
This report shall be submitted with each invoice as a condition of payment under this Contract.					
Project Name:					
Contract No:		Consultant Name:			
Federal ID No.:		Contract Amount (including amendments):	\$		
(OWP WE #, FTA Grant #, FHWA Project #)					
Period Covered By This Report:		Current	Total to Date		
		(Invoice #)	To		
Total Invoice Amount		(A) \$	(B) \$		
Payment Requested:	DBE? (Yes/No) DBE Code (if "Yes")	Prior Amount*	Current Amount*	Total Amount to Date*	
Prime Consultant		\$	\$	\$	
Subcontractors (attach additional sheets as needed):		\$	\$	\$	
Name: Type of Work:		\$	\$	\$	
Name: Type of Work:		\$	\$	\$	
Name: Type of Work:		\$	\$	\$	
Name: Type of Work:		\$	\$	\$	
TOTALS		\$	\$	(C) \$	
DBE Participation to Date (C/B)		%			

****Insert dollar amounts for DBEs only***

ATTACHMENT 1.6 a) – DBE PARTICIPATION REPORT

Acknowledgment of Prompt Payments by Contractors to Subcontractors:

As a duly authorized representative of the company I fully understand and testify that our company has complied with the following prompt payment by Contractors to subcontractors, terms and conditions.

- 1) Any money paid to Contractor for work performed by a subcontractor shall be disbursed to the subcontractor within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes on which the Contracting Officer has withheld payment.
- 2) Upon final payment to Contractor, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided there are no bona fide disputes over the subcontractor's performance under the subcontract.

Printed Name and Title

Signature

Date

ATTACHMENT 1.6 b) - FINAL REPORT OF DBE PARTICIPATION

This report must be submitted by the Consultant with the final invoice or request for payment under this contract.

Project Title: _____

Consultant Name: _____

Project No.: _____ Contract No.: _____

Period Covered by this Report: _____

Contract Amount (including amendments): \$ _____

Final Payment Amount: \$ _____ Invoice No.: _____

Total Payment to DBE: \$ _____

All Subcontractors (DBE and non-DBE) & DBE Suppliers or Manufacturers	Type of Service or Materials Provided	Subcontract Amount
Name Address Telephone No.		
Name Address Telephone No.		
Name Address Telephone No.		
Name Address Telephone No.		

Add additional sheets as necessary.

Signature

Print Name & Title

ATTACHMENT 1.6 b) - FINAL REPORT OF DBE PARTICIPATION

Acknowledgment of Prompt Payments by Contractors to Subcontractors:

As a duly authorized representative of the company I fully understand and testify that our company has complied with the following prompt payment by Contractors to subcontractors, terms and conditions.

- 1) Any money paid to Contractor for work performed by a subcontractor shall be disbursed to the subcontractor within ten (10) days after receipt of the money in accordance with the terms of the subcontract; provided that the subcontractor has met all the terms and conditions of the subcontract and there are no bona fide disputes on which the Contracting Officer has withheld payment.
- 2) Upon final payment to Contractor, full payment to the subcontractor, including retainage, shall be made within ten (10) days after receipt of the money; provided there are no bona fide disputes over the subcontractor's performance under the subcontract.

Printed Name and Title

Signature

Date

ATTACHMENT 1.6 b) - FINAL REPORT OF DBE PARTICIPATION

Instructions for completing the final report of DBE participation:

All subcontractors, suppliers and manufacturers should be listed on the FINAL REPORT OF DBE PARTICIPATION in the same order as listed in the proposal.

Project Title:	Self Explanatory
Project No.:	Self Explanatory
Period Covered by this Report:	Same period as invoice period
Consultant Name:	Self-Explanatory
Consultant No:	Self-Explanatory
Contract Amount (including amendments):	Less Mobilization, Force Account Items and Allowance Items Amendments should be listed separately with an explanation of how it was allocated to DBEs and non-DBEs
Invoice No.:	Self-Explanatory
Final Payment Amount:	Self-Explanatory
Total Payment to DBE	Total \$ amount paid to DBE
Acknowledgement of Prompt Payment	Self-Explanatory